

**METROPOLITAN AREA PLANNING COMMISSION**  
**MINUTES**

**September 16, 1999**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, September 16, 1999 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Bill Johnson, Chair; James Barfield; Chris Carraher; Frank Garofalo; Bud Hentzen; John W. McKay, Jr.; Ron Marnell; Jerry Michaelis; Susan Osborne-Howes; Harold Warner, Jr.; Ray Warren; and Deanna Wheeler. Richard Lopez and George Platt were not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Keith Gooch, Senior Planner; Donna Goltry, Principal Planner; Lisa Verts, Senior Planner; and Karen Wolf, Recording Secretary.

**1. Election of new Chair and Vice-Chair**

**JOHNSON** "I will now open the floor for nominations for the Chair of the Commission."

**MOTION:** That Frank Garofalo be the Chair of the Metropolitan Area Planning Commission.

**MCKAY** moved, **MICHAELIS** seconded the motion, and it carried unanimously (10-0).

**JOHNSON** "The floor is now open for nominations for Vice-Chair."

**MOTION:** That Ron Marnell become the Vice-Chair.

**WARREN** moved, **MCKAY** seconded the motion, and it carried unanimously (10-0).

There were no other nominations.

**JOHNSON** "Before Mr. Garofalo takes over, I want to thank staff and all of the Commissioners for all of their patience over the past year. It has been a good experience, and I really appreciate it."

Garofalo assumed the chair.

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Osborne-Howes arrived at the meeting at 1:35 p.m.

**2. Approval of the minutes for MAPC meeting of June 24, 1999.**

**GAROFALO** "I have one correction on Page 9. I think where it says Bill Johnson was the Chair read the Opening Statement. I don't think Bill was at that meeting, and I ran the whole meeting. Are there any other changes, corrections or additions?"

**MOTION:** That the Metropolitan Area Planning Commission approve the minutes for the June 24, 1999 meeting as amended.

**CARRAHER** moved, **JOHNSON** seconded the motion, and it carried unanimously (11-0).

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**3. Consideration of Subdivision Committee recommendations**

**GAROFALO** "Items 3/1 through 3/5 can be taken in one motion. Is there anyone here who would like to speak on those items? I have one little question on item 3/1, and that is on Item D. It says it must be approved before MAPC consideration."

**NEIL STRAHL**, Planning Staff, "I spoke with Jim Weber with County Engineering yesterday, and he did approve it."

Subdivision Committee items 3/1, 3/2, 3/3, 3/4 and 3/5 were approved subject to the Subdivision Committee recommendations.

**JOHNSON** moved, **CARRAHER** seconded the motion, and it carried unanimously (11-0).

**3/1. S/D 99-55** – One-step final plat PRAIRIE CROSSROADS UNITED METHODIST CHURCH ADDITION, located on the northeast corner of 119<sup>th</sup> Street West and Pawnee.

A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval.

B. City Engineering needs to indicate if petitions for future extensions of municipal water and sanitary sewer need to be provided at this time. City Engineering has requested petitions for future extension of City sewer and water.

- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. A drainage plan has been approved. On-site or off-site detention is required.
- E. County Engineering needs to comment on the access controls. The plat proposes one access opening along 119<sup>th</sup> St. West and one access opening along Pawnee. The access controls are acceptable.
- F. County Engineering needs to comment on the need for any traffic improvements to perimeter streets. No improvements are required for perimeter streets.
- G. Documentation must be provided that the pipeline easement as indicated on the platting binder has been released. If the easement has been confined, proof needs to be provided that it does not in any way encroach this site. If the easement does impact this site, it shall be shown and subject to the standard pipeline conditions.
- H. The platting binder indicates that the site's ownership is in the party of "Wichita United Methodist District Union". This name must also appear on the owner's signature block on the final plat tracing.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

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**3/2. S/D 99-59 – One-step final plat of RIDGE PORT NORTH 2<sup>nd</sup> Addition, located on the south side of 37<sup>th</sup> street North, east side of Ridge Road.**

- A. The northwest sewer service boundary area has been extended to include this site. As a condition for the approval of the Ridgeport North Addition, the Applicant has participated in the petition for the required lift station. City Engineering should comment on the need for additional guarantees or easements. No additional guarantees are required.
- B. As a condition for the approval of the Ridgeport North Addition, the Applicant has guaranteed the extension of City water to serve the lot being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

- D. City Engineering needs to comment on the status of the applicant's drainage plan and the accuracy of the minimum building pad elevation. The minimum building elevation shall also be denoted in NGVD. City Engineering needs to comment on the need for a revised petition for the drainage improvements. The drainage plan is approved.
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. As required for the Ridgeport North Addition, guarantees have been submitted for the following: Right and left turn decel and storage lanes at the two major accesses to the site along both Ridge Road and 37<sup>th</sup> St. North, left turn lanes for the southbound and westbound left turns at the intersection of 37<sup>th</sup> Street and Ridge Road, installation of traffic signals at the intersection, and asphalt mat improvements to 37<sup>th</sup> St. North. Traffic Engineering needs to comment on the need for any additional improvements. The applicant shall submit a revised petition for traffic improvements indicating 12.5% participation in the cost of signalization.
- G. Traffic Engineering shall comment on the access openings. The access openings correspond with those approved for the CUP and Ridgeport North Addition. Two openings have been platted along 37<sup>th</sup> St. North – one joint opening with the property to the west, and one major opening. The platted access controls indicate two openings along Ridge Road, although the drawing only denotes one proposed opening. The plat shall be revised to denote access control except for one major opening along Ridge Road and a corresponding CUP adjustment shall be filed.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. A CUP Certificate shall be submitted for recording with the Register of Deeds identifying the approved CUP (referenced as DP-237) and its special conditions for development on this property.
- K. For those reserves being platted for sidewalk purposes, the required covenant, which provides for ownership and maintenance of the reserves, shall establish that the lot owners' association shall maintain the sidewalk system planned for construction outside of the street right-of-way. This covenant shall grant to the City the authority to maintain the sidewalks outside of street right-of-way in the event the owners fail to do so.
- L. The surveyor's certification shall be revised by referencing "a replat of Lot 1, Ridge Port North Addition".
- M. The recording information shall be denoted for the existing joint access opening between this plat and the lot to the west along 37<sup>th</sup> Street North.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.

- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
  - U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
  - V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.
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**3/3. S/D 99-58 – One-Step Final plat of SEERY'S' ADDITION, located east of Greenwich Road, North of Pawnee.**

- A. This site is located in the County's Four Mile Creek sewer system and will be served by the County.
- B. City water facilities are currently available to serve the site.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. County Engineering needs to comment on the status of the applicant's drainage plan. A four-corner lot grading plan is requested.
- E. The plat contains less than the required 100-foot lot width and an administrative adjustment will be required.
- F. Based upon the platting binder, a mortgage is being held by First National Bank. This party needs to be made a signatory to the plat or a document provided that such interest is no longer involved.
- G. The name of the plat shall be corrected in the MAPC certification.
- H. The final plat tracing shall reference a tie point to a section corner.
- I. The lot depth exceeds its width by more than a ratio of 2.5 to 1, and a modification will need to be granted by the MAPC. The Subdivision recommends that this modification be granted.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

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**3/4. D-1768** - Dedication of Access Control for property generally located on the east side of Webb Road, south of 29<sup>th</sup> Street North.

OWNER/APPLICANT: Via Christi Property Services, Inc., C/O David M. Mohr, 959 N. Emporia, Wichita, KS 67214-3722

LEGAL DESCRIPTION: Lot 4, Block 1, Kansas Surgery and Recovery Center Addition.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split (L/S-1010) and is being dedicated to provide complete access control to the property from or to Webb Road over and across the north 405 feet of the west line of said property

Planning Staff recommends the granting of this dedication be accepted.

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**3/5. D-1770** – Dedication of a Utility Easement for property generally located on the north side of Maple Street, 1/4 mile west of Maize Road.

OWNER/APPLICANT: Patrick F. Walden, Garden Plain State Bank, P.O. Box 75009, Wichita, KS 67275-0009

LEGAL DESCRIPTION: Commencing at the southwest corner of Lot 3, Block 20, Oak Cliff Estates to Wichita, Sedgwick County, Kansas; thence N90° 00'00" E along the south line of said Lot 3, 152.00 feet for a point of beginning; thence N00°06'48"E parallel with the west line of said Lot 3, 217.61 feet; thence N90°00'00" W parallel with the south line of said Lot 3, 9.77 feet; thence N00°00'00"E, 10.00 feet; thence N90°00'00"E parallel with the south line of said Lot 3, 9.79 feet; thence N00°06'48"E parallel with the west line of said Lot 3, 302.39 feet to a point on the south line of a 20-foot Utility Easement as granted in said Lot 3; thence N90°00'00"E along the south line of said 20-foot Utility Easement, 20.00 feet; thence S00°06'48"W parallel with the west line of said Lot 3, 530.00 feet to a point on the south line of said Lot 3; thence N90°00'00"W along the south line of said Lot 3, 20.00 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split (L/S-1015) and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends the granting of this dedication be accepted.

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Wheeler arrived at the meeting at 1:40 p.m.

**STRAHL** "Mr. Chair, before you move on to the zoning items, I have a memo related to the Subdivision that should be in your packet. It is a memo dated September 15 entitled 'Surveyor Certification on Plats'. It should have been distributed today. I will explain it briefly.

It was adopted by the State Legislature effective July 1 of this year. What the bill does is to require review and certification of all plats in the City and County by the County Surveyor, and in the absence of the County Surveyor, done by the County Engineer. This law previously was in effect, but it exempted any cities with Planning Commissions. So we had to a new bill to remove that exemption, and now this is applicable to us. We did have a meeting this week with the County Legal Department and they will be contacting the Attorney General for an opinion on this matter, because it does lengthen our platting procedure considerably, as we will now have to have the County Engineer review and certify all plats for the City and County before we can forward the plats to the City Council.

In the interim, though, we are going to include a signature block on all plats for David Spears, the County Engineer to have his staff review and certify all plats and then we will take the plat back and have the City Council review it. I just want to make you aware of this."

**GAROFALO** "This doesn't really impact us, does it? I mean, our Subdivision process will proceed as always?"

**STRAHL** "That is correct. It will lengthen the process for the platting engineer."

**WARREN** "Isn't Jim Weber in David Spears' office?"

**GAROFALO** "No. He is in sewer."

**STRAHL** "This would have to be reviewed by a surveyor."

**MCKAY** "What are you talking about, one week, two weeks, a month?"

**STRAHL** "I don't know."

**MCKAY** "I would think they would make some kind of guidelines, or at least some recommendations. They might leave it on the shelf for a week and a half or two weeks."

**MILLER** "He has three folks out there that are registered surveyors. What they are hoping to get from the Attorney General is a clarification on how detailed the review has to be. If it is basically just a cursory check for the math and make sure that the thing closes and there is a beginning point that makes sense and all of that, that wouldn't be too bad. But if it is an actual 'we expect you to double-check everything and seal it with a surveyor's seal', they are reluctant to do that for fear that they would then become liable in the chain of liability."

So that is what they are hoping to get from the Attorney General as a clarification of how detailed that has to be. I guess then, depending upon that, it will dictate how long it may take them to do this. There was other discussion about if it was really going to be that detailed, maybe they could hire a consultant to do it, but at that point, Mr. Spears didn't think he had the budget, at this point, to do that. So some of those kind of questions are still up in the air until we get this Attorney General's opinion."

**GAROFALO** "Is the Legal Department going to inquire as to whether or not we are still exempt or not exempt from these?"

**MILLER** "It was my understanding from the County Law Department that we were not exempt today. We had been up until this recent bill."

**HENTZEN** "Mr. Chair, has the system of us being exempt caused any problem in this County in the last five years? All I am saying is why are they stacking that delay in cost onto the procedure we now use unless there has been a serious problem?"

**KROUT** "I don't think there is a good explanation except to tell you that the Kansas Land Surveyors' Association sponsored this bill, and the bill was entered in, somehow, through a consent agenda, so there was very little understanding about what the legislature was passing when they did pass it. We have earmarked it for attention at the next legislative session and also alerted the Home Builders' Association on this issue."

**HENTZEN** "What I was driving at is if we are going to have the County Engineer having to conduct this examination, then we should not require anybody else to present this examination. I just asked that question because I had never heard of a problem like that."

**GAROFALO** "Are there any other questions or comments? Thank you."

**MICHAELIS** "I have a question. Does that mean like in Subdivision now, that that is automatically going to be a requirement from today on?"

**KROUT** "I think the Register of Deeds was part of that meeting also and indicated that he was not going to record any plats that just had this signature on them."

**MICHAELIS** "Is that plats that are applied for as of this? Will ones that already in the process be affected?"

**KROUT** "I think the ones that are in the process will be affected. And, isn't there some way they are going to go back to the process where all plats that were recorded since July will have to file a certificate after the fact. It is going to lengthen the process some."

**GAROFALO** "Is there anything else on this? Okay."

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**FRANK GAROFALO**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable

staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

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**ZONING:**

4. **SCZ-0791** – Sherman Donaldson (Owner); Terra Tech c/o Michele Goodrich (Agent) request a zone change from “SF-20” Single-Family residential to “MH” Manufactured Housing on property described as:

The West 150 feet of the south 750 feet of a tract of land Beginning 1998.2 feet East of the Southwest corner of the Southwest Quarter of section 12, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; thence East 649 feet; thence North 2651.2 feet; thence West 658.8 feet; thence South to Beginning, EXCEPT the East 165 feet of the Southwest Quarter, Section 12, Township 28 South, Range 1 West, AND EXCEPT that part condemned in District Court Case A-76777 for I-235 Highway. Generally located north of MacArthur and ½ mile east of West Street.

**KEITH GOOCH**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting to rezone a 2.6 acre unplatted tract of land from “SF-20” to “MH” located north of MacArthur and ½ mile east of West Street. There are currently two doublewide manufactured homes on this property. One home is a legal nonconforming use and is permitted to stay. The other manufactured home was approved in 1995 on a temporary basis to provide care for the applicant's wife. The applicant did receive a permit from the Sedgwick County Code Enforcement to enlarge the temporary structure. The home was to have been removed after his wife no longer lived on-site, so the permit was issued in error. The applicant's children now use this home. Sedgwick County Code Enforcement realized the error and proceeded to take court action against the applicant. The applicant has been ordered by the court, to either move the temporary home approved in 1995 or meet the code requirements. The Unified Zoning Code (UZY) requires manufactured homes, unless they meet the standards of a “Residential Design Manufactured Home (a manufactured home on a permanent foundation which has minimum dimensions of 22 body feet in width a pitched roof, and siding and roofing materials which are customarily used on site-built homes, and which complies with architectural and aesthetic standards specified in Sec. IV-D of the UZY), to be placed on lots zoned “MH” Manufactured Housing or on lots larger than 20 acres in size.

The UZY requires all manufactured homes to be placed on a permanent enclosed perimeter foundation, or be skirted around the perimeter of the home, within 45 days of the placement of the home, by solid concrete or masonry walls or a material designed to be used as mobile home skirting that does not have a flame spread rating in excess of 25. The manufactured home shall also be provided with handrails on all outside stairs that have a rise of more than 30 inches from grade to finished floor elevation and shall have any stairs, porches and handrails constructed so as to be structurally sound. The manufactured home in question does not currently conform to all of these requirements.

This site could possibly serve approximately 20 manufactured homes based upon the density permitted in the “MH” district for a “park” that is if served by public water and sewer. Staff is recommending if the request is approved, that the property be limited to one manufactured home on each of two lots.

At the time of platting, the City of Wichita Fire Department will require that all structures be within 600 feet of the entrance to Lot 2, the driveway be constructed as a 20 foot wide gravel roadway with a turnaround at the north terminus, and the construction of a fire hydrant along MacArthur, once municipal water is available. The Health Department has stated that, if the zoning request is approved, both lots would be permitted a septic system.

There are site-built single-family homes located to the east, south and west on property zoned “SF-20.” A church exists to the north of the application area zoned “SF-6.”

**CASE HISTORY:** Stated in the background section.

**ADJACENT ZONING AND LAND USE:**

NORTH: “SF-6” Church  
SOUTH: “SF-20” Single-family homes  
EAST: “SF-20” Single-family homes  
WEST: “SF-20” Single-family homes

**PUBLIC SERVICES:** This site has access to MacArthur Road, a two-lane arterial with current traffic volumes of 6,460. The 2020 Transportation Plan estimates these volumes will increase to 8,667. There are no improvements for this stretch of roadway listed in the City of Wichita or Sedgwick County Capital Improvement Program.

Municipal sewer is located east of this property approximately 500 feet. Municipal water is not available to serve this site currently.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide identifies this area as appropriate for low density residential uses. This category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. The Comprehensive Plan calls for mobile home parks to be located on larger tracts and buffered by physical barriers from traditional single-family neighborhoods.

**RECOMMENDATION:** Planning staff has a policy of not supporting new "MH" Manufactured Housing zoning except for areas where similar uses or zoning are already established. The surrounding residential units are characterized by site-built single-family homes on property zoned "SF-20." Therefore, Planning staff recommends the request be DENIED.

However, if the Planning Commission feels the request is appropriate, then Planning staff recommends that a Protective Overlay be placed on this request, stating that the property shall be platted, within one year, into two separate lots, and be limited to one manufactured home or site-built home per lot.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes located to the east, west and south on property zoned "SF-20." Most if not all the homes are site built homes. A church is built on the property to the north, zoned "SF-6."
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-20" and could be developed with a use permitted "by-right" in this district. The applicant has not explained to staff why a site built home could not be constructed at this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If this property is rezoned, it could possibly set the precedent to permit other Manufactured Housing zoning in the area. There is a perception that non-residential designed manufactured home detrimentally affect property values of nearby site-built homes.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is shown to be appropriate for low-density residential uses, which this request does comply with. However, the residential locational guidelines recommend, "mobile home parks should be located on larger tracts, buffered by physical barriers (e.g. freeways, drainage ways, other land uses) from traditional single-family neighborhoods." Therefore, this manufactured home which would generally be found in either a mobile home park or subdivision should be buffered from other traditional single-family neighborhoods. This request does not conform to the locational guidelines for manufactured homes.
5. Impact of the proposed development on community facilities: This development should not generate significant traffic nor should it impact other community facilities.

**GOOCH** "This case was deferred from the last meeting."

**GAROFALO** "Keith, now that we have some new members, could you explain why this was deferred?"

**GOOCH** "This was deferred, based on a question about a permit that was issued to expand the second manufactured home that was permitted originally, by a special use exception to allow the care provider to live on site and take care of the applicant's wife. She was ill and needed care. I think it was the applicant's daughter and son-in-law who lived on site in the other home for the time being.

After the wife no longer lived on site, a permit was issued to allow for a new manufactured home through Sedgwick County Code Enforcement. That permit was issued in error. Manufactured homes are not permitted to be located on this property without either going through a rezoning process, which they are today. The second manufactured home is required through the use exception to be removed after 30 or 60 days after the wife no longer lived on site. They failed to do that. There was court action brought against the applicant and the Sedgwick County District Court has required that the said manufactured home either be removed or this piece of property be brought into compliance with today's Zoning Code, which would require them to rezone this piece of property.

That is basically why County Code Enforcement is here today, to explain the history on this about why that permit was issued back in 1995 for the expansion of that manufactured home, even though the wife didn't live on site. That is the reason it was deferred from the August 26<sup>th</sup> meeting to today was to allow County Code Enforcement to be present to explain a little bit more of the history of this request.

**WARREN** "Could I maybe have you explain a little bit about what the potential options are? Then, also, do I understand that if this request is approved, would that existing mobile home site have to be moved to what we are now looking at as Lot 2 on this plat?"

**GOOCH** "That is correct."

**WARREN** "It would. Is Lot 1 and 2 split now, or is that a condition of this?"

**GOOCH** "It would be a condition. They would have to replat this property into two separate properties with one manufactured home on each site."



**WARREN** "Thank you. One could be on Lot 1 and one could be on Lot 2."

**GOOCH** "The existing southern manufactured is a permitted use and is permitted to stay."

**WARREN** "Do I further understand that we don't have within our power, through some kind of a non-conforming grant to allow it to remain where it is, is that right?"

**GOOCH** "That is correct. It is not a conforming use."

**KROUT** "Well, the first one is."

**GAROFALO** "Let's hold up on our questions until Keith gives the whole explanation of what is going on here. Mostly for the benefit of the new members."

**GOOCH** "What I just stated is pretty much what is going on and what is required. There is a little bit more background on the staff report. There are site-built homes that surround this piece of property to the east, south and west on property zoned 'SF-20'. A church exists to the north, which is shown here in white, on property zoned 'SF-6'. Planning staff is recommending denial. We have had the policy of not supporting new Manufactured Housing zoning except for areas for similar uses or where zoning is already established in the general area.

The closest manufactured housing I could find when I was out there was located to the west. Basically, in this area there are one or two manufactured houses. Most of the other property around this is developed with site-built homes.

The other reason this was deferred was to allow County Code Enforcement to be here. There was a question about whether or not they could put the second home on a permanent foundation, which is required by Code. And if they did the platting on the two separate lots if that one home could be moved to the other lot and both be permitted to stay, without rezoning. That was one of the reasons we wanted County Code to speak on that. Are there questions of staff?"

**GAROFALO** "Okay. Let's hear from them."

**GEORGE BLOESING** "I am a Zoning Inspector with Sedgwick County, representing our director, Glen Wiltse, who is out of town on business. What I have is basically a statement of facts.

The occurrences of this happened before my employment as a Zoning Inspector, so as far as actual questions on the statement of facts that I am going to read, I really don't know whether I will have the answer or not. Before Mr. Wiltse left town, we went through and came up with this statement of facts. The permit for the replacement manufactured home was issued on March 13, 1997 by a now former employee of Sedgwick County Code Enforcement. The permit was issued in error. Upon review of the permits that were issued that day by the supervisor, it was learned that the permit was issued in error, and other persons in Code Enforcement were notified. The third fact is that a now former Zoning Inspector notified Mr. Donaldson, the property owner by telephone conversation that the error was in the issuance of the permit the following day, which was on March 14, 1997. A certified letter, stating the same was mailed as a follow-up, mailed certified on March 17, 1997.

On March 21, 1997, Mr. Donaldson, the property owner, and a third now former employee of Code Enforcement met with Mr. Wiltse in his office. In that meeting, Mr. Wiltse was asked by the former employee if he could just look the other way on this situation and allow that second mobile home to be allowed on the property. The fifth fact is that this case has been in some legal process since the day of the actual issuance of the permit after the certified letters, and it has now come to this Commission. It has been through County Court, through District Court and it has now come to this Commission for some type of resolve."

**GAROFALO** "Are there any questions?"

**MCKAY** "Couldn't the courts settle it?"

**BLOESING** "I believe in District Court, the case was dismissed. Apparently what happened was in District Court, the citation that was actually issued went through County Court and it was a guilty finding on that. It was appealed to District Court and the District Court found that the citation that was issued by the former Zoning Inspector was issued also in error by using the wrong actual complaint or statute, so the case was dismissed.

I was involved in a meeting where Mr. Donaldson came in and met with Mr. Wiltse, and Mr. Wiltse explained to Mr. Donaldson, what, in his interpretation by Zoning Code, he would have to do to get the property into compliance. That was the things that are here, to split the lots and to rezone it to Manufactured Housing."

**KROUT** "If the Planning Commission and the County Commission were to deny this rezoning, then the County Code Enforcement would go back to enforcement and probably issue another citation, referencing the ordinances and statutes and continue to pursue enforcement."

**BLOESING** "That is exactly correct."

**MICHAELIS** "If this home were put on a permanent foundation on Lot No. 2, and if it did meet all of the other requirements, it would be suitable for 'SF-20' zoning."

**BLOESING** "It is my understanding that that is correct."

Unable to hear some of the dialog because of excessive noise and coughing.

**MICHAELIS** "I am going to ask why they are not willing to put it on a foundation and do that. I can't figure out why you would want to go through a zoning change if they could just put it on a foundation and comply."

**BLOESING** "Apparently, if they would keep the second home there, it wouldn't meet current zoning at this time. That is my understanding."

**GOOCH** "I understood, when I talked to Glen, that the northern home, the one the permit was issued in error on was not permitted to stay. There was a question that even if they put it on a permanent foundation that it would meet the regulations of today's code."

He told me that they would have to submit some information to Glen (Wiltse); Glen would review it, and then, at that time, he would issue a statement as to whether it was permitted or not."

**MICHAELIS** "I guess that is essentially my question. It just seems like if it is permitted to be moved and put on a foundation and it would conform, then there really isn't any sense for a zone change."

Unable to hear some of the dialog because of coughing.

**BARFIELD** "I guess I am at loss. You said that the staff's position was no one could move in a manufactured home unless the immediate area was zoned for that, but you mentioned an exception in this case?"

**GOOCH** "No. The area surrounding this is not zoned for Manufactured Housing and singlewide or doublewides not on foundations. The property surrounding it is 'SF-20' or 'SF-6' and does not permit double-widens not on a permanent foundation. It does permit doublewides on permanent foundations that meet certain requirements, like a pitched roof, and being 22 feet wide."

Unable to hear dialog because of coughing.

**BARFIELD** "But I thought I heard you say that by saying that staff was recommending this for approval."

**GOOCH** "I hope I didn't say that. Staff is recommending that this request be denied."

**OSBORNE-HOWE** "What period of time passed between the time that the County determined this and they were notified that there was an error? Would you say the next day?"

**BLOESING** "It was the next day. The permit was actually issued on March 13. He was notified by phone conversation on the 14<sup>th</sup> of March."

**OSBORNE-HOWES** "So it was one day later."

**BLOESING** "Right."

**WARREN** "I would like to clarify a little bit. Assuming that Lot 2 is a legal platted lot, and assuming it was going to be zoned as 'SF-6', then do I hear that in all likelihood that that manufactured home on a permanent foundation would be a conforming use on a platted lot 'SF-6'?"

**GOOCH** "A double-wide manufactured home that meets the requirements of the Zoning Code, which is 22 feet, pitched roof, and some other requirements, is permitted in the 'SF-20' district."

**WARREN** "So there is a question on the part of Wiltse to determine whether or not that one does apply, but generally speaking, if it does apply, then they wouldn't need mobile home zoning. He could go in on 'SF-6'."

**GOOCH** "He could go in on 'SF-6', or 'SF-20'."

**WARREN** "Do I understand further that Lot 2 isn't really a platted lot? It would have to be platted?"

**GOOCH** "Correct."

**HENTZEN** "I want to follow up on what Jerry said. I want to carefully ask that if we approve this request, does that mobile home that is sitting there qualify to be moved to Lot 2? And if it doesn't, are we giving permission for them to go out and buy one that does and put it on Lot 2?"

**GOOCH** "If this request is denied, they could go out and buy a home that meets those requirements in the Zoning Code, double-wide permanent foundation and put it on Lot 2. And move the other one."

**HENTZEN** "Can the inspector tell us, will this particular one qualify to be moved to Lot 2?"

**GOOCH** "He says no he can't. And as I understood from Glen Wiltse, it takes more information from the applicant to provide to Glen for him to understand whether or not it would. That is what I understood from Glen."

**KROUT** "Do we know what kind of information Glen doesn't have already?"

**GOOCH** "I do not know that."

**MCKAY** "Keith, would you go back to the slide that shows the unit that they are having to move?"

**GOOCH** (Indicating) "That is the existing one on the south."

**MCKAY** "No, I want to see the one they have to move. Does that have a pitched roof, and is it 22 feet wide?"

**GOOCH** "Yes. He is shaking his head yes."

**KROUT** "Was it built since 1976?"

**SHERMAN DONALDSON** "I live at 3330 West MacArthur. Yes, it is suitable for that, but we don't want to put a foundation on there because it is going to cost about \$15,000 to do that. These kids have already spent a lot out there. That is one reason we just want to get this rezoned and move it back there and sit it there. We know we are going to have to move it 50 foot to get it on the other piece of property. We are trying to get around the \$15,000 for the foundation and then have it set on that foundation."

**GAROFALO** "Do we have any other questions that have to be asked of staff right now? If not, we will go to the applicant and let him have his say. You have ten minutes to tell us your position."

**DONALDSON** "Well, we took the permit out...the mobile home that was on there first was moved, in compliance with our first permits. The County was notified, and Hugo Shea, who was a county inspector at that time, did come out and verify that. Then the kids went up there and got another permit for this one, and when we put that mobile home on there and called in for an inspection, that is when they told us we had to move it, after they had already told us we could put it on there. We don't think that they should be able to do that."

**KROUT** "Just to clarify, are you saying that you got a permit in the 13<sup>th</sup> and you moved it on that date before you got the telephone call the next day."

**DONALDSON** "We had it set up the next day, yes. We didn't know that we couldn't have it there until we called in for an inspection."

**KROUT** "Does that mean that you moved it before the 13<sup>th</sup>?"

**DONALDSON** "No. We moved it on the 13<sup>th</sup> and set it up. I don't have the dates here in front of me, but we got the permit one day, they gave us the permit and we moved it in there and set it up and called the next day for an inspection and then they came out and told us we couldn't have it there."

**BARFIELD** "Staff says they called you on the 14<sup>th</sup>."

**DONALDSON** "Well, after the inspectors were out there and told us we couldn't have it there, they went back to their office and someone called from their office. The inspectors had already been here."

**WARREN** "I am kind of confused because this whole thing started some time back, as I understand it, as kind of a hardship case to allow a mobile home to be put in there for a limited period of time for the Mother. Now, is this that mobile home, and was it set up this way?"

**DONALDSON** "No. That was a singlewide mobile home that I pulled a permit for in 1995 to put on there. After my wife died, we had 90 days to move it. She died in December and we moved that mobile home in February. Hugo Shea, who was the County Inspector came out and verified that we moved it. That was a singlewide, this is a doublewide that is on there now."

**GAROFALO** "Was the single-wide removed from the property?"

**DONALDSON** "It was removed from the property in February completely."

**GAROFALO** "And when did you move in this other one?"

**DONALDSON** "In March."

**GAROFALO** "And when did you get the permit?"

**DONALDSON** "In March. We got the permit one-day and moved the mobile home also. The same day."

**GAROFALO** "And then you were notified the next day that.."

**DONALDSON** "Well, we called for inspection the next day, and when the inspectors came out, they informed us that we couldn't have it there."

**GAROFALO** "Then what did you do?"

**DONALDSON** "I told them it was already there and I had a permit to put it there. They issued the permit."

**GAROFALO** "When did you go to court? Did you go to court?"

**DONALDSON** "Yes. I can't remember the exact date we went to court. They gave me 90 days to move it and I didn't do it. They issued me a ticket. Then we went through the court system. Well, first we went through small claims, then we appealed that and went to District Court and they dismissed it. They said the county was in error for issuing the permit."

**GAROFALO** "So in other words, did the court tell you to remove it?"

**DONALDSON** "No, sir."

**BARFIELD** "Are you asking for this zoning change on this property for just these two mobile homes?"

**DONALDSON** "Just for these two. We will sign a waiver or anything you want us to sign. These two mobile homes will be all that will be put on that piece of property. Legally we can't put any more on there because there are no utilities there. The only thing we are trying to do is just to keep these kids from spending another \$15,000 that they don't have to put this thing on a foundation."

**HENTZEN** "I think he has boiled this down to what he is asking for now. No. 1, they did comply with taking the original one away as a result of the care taking they needed to do. Now, I think they are asking us to approve them putting a doublewide up there without a foundation, as required by the rules. I don't think we have the authority to adjust or change the County's rules on a doublewide. I don't know. Why would we be able to do that?"

**DONALDSON** "Well, if we can get our zoning, we won't have to put it on a foundation. If we do get this changed to 'MH' Manufactured Housing, we would not have to put it on a foundation. That is what we are up here for, trying to get it rezoned to Manufactured Housing."

**HENTZEN** "Okay, I understand now."

**KROUT** "Can you put the unit back up on the screen. Does that unit have a metal roof?"

**DONALDSON** "No. Shingled roof. It would go on a foundation; there is no question about that. It is a 1995 or 1996 mobile home. It does meet the requirements."

**KROUT** "Okay. That is what I thought."

**DONALDSON** "The kids just don't meet the requirements on the \$15,000 it takes to put it on there. If we had done this back in 1997 before the change, we wouldn't have to be going through this now."

**KROUT** "Is that \$15,000 for just the foundation?"

**DONALDSON** "Uh, huh."

**MICHAELIS** "Have you gotten an estimate from a business?"

**DONALDSON** "Yes. We had it checked and that is basically what it is going to cost."

**MICHAELIS** "I know some people who would love to bid on that project."

**DONALDSON** "They want \$8,500 for the foundation and \$4,000 for a house mover to come in there and move it and set it on there."

**MCKAY** "You would have that cost regardless."

**DONALDSON** "No. If we don't have the \$8,500 to put the foundation there, we can move it ourselves."

**GAROFALO** "What do you mean, you could move it yourselves?"

**DONALDSON** "We're in the mobile home business. We own the Donaldson Mobile Home Service."

**GAROFALO** "Would it stay where it is then?"

**DONALDSON** "No, we've got to move it, regardless. We just don't want to have to put it on a foundation. We would have to move it about 50 foot."

**GAROFALO** "It is setting where the temporary one was?"

**DONALDSON** "Fairly close, yes."

**GAROFALO** "So you would have to move it."

**DONALDSON** "We have got to move it regardless of which way we go. But we can do it ourselves if we don't have to put it on a foundation."

**WARREN** "Are we done with the applicant?"

**GAROFALO** "I guess so, unless there are some more questions. Is there anyone else here who would like to speak in favor of this application?"

**MICHELE GOODRICH** "I am with Terre Tech Land Surveying. The only alternative that I could see before we made this application for the zone change was to consider that this structure would also be classified as a non-conforming use and leave the zoning as 'SF-20' with a non-conforming structure on it. I would prefer that scenario if it could be supported."

The zoning change that created the mobile home zoning was done after the permit was pulled on the second home. Therefore, it seems to me that it ought to be grandfathered in. 'MH' zoning is a less restrictive zoning. I don't think it is necessarily what you want to do in this area. If you could leave it as 'SF-20' with a non-conforming structure on it, if either one of these got hit by a tornado and they weren't replaced within a year, they would have to be replaced with stick-built homes. If you change the zoning to 'MH' and the same thing happens, they could even be replaced with singlewides. So that is a consideration."

**MCKAY** "Not if there was an overlay put on it, they can't."

**GOODRICH** "No, not if there is an overlay. Well, you would have to include that specific item in the overlay itself to restrict it to a double-wide home then."

**WARREN** "Are you suggesting that we have the power, maybe to allow it to remain where it is as some kind of a non-conforming use?"

**GOODRICH** "You have to determine that it has a non-conforming status. In the Subdivision Regulations, it says 'in all cases, the property owner has the burden of establishing that a non-conforming use or non-conforming structure lawfully exists under this Code. So if you believe that the permit was not done by means of fraud, that it was a good faith effort on Mr. Donaldson's part to apply for that permit, just because it was issued in error, doesn't mean that it was issued illegally or unlawfully, then I believe that you can interpret this as saying that that second home is also a non-conforming structure."

**KROUT** "Commissioners, I am sorry that we don't have someone from the Law Department here to verify this, but this is not an issue that the Planning Commission over to determine whether this is a non-conforming structure or not. It is an issue that the County Code Enforcement office thinks they have determined to be an illegal structure, not a non-conforming structure. If there is any appeal of that interpretation, it is something that would have to go to the County Board of Zoning Appeals. It seems pretty clear from the facts, though, that this is an illegal structure."

It is true that the County Code Enforcement issued that permit in error, but you can't use that fact to declare something a legal use that is not a legal use. So, regardless, it is not an issue that in the jurisdiction of the Planning Commission."

**GOODRICH** "There are a couple of non-conformities going on here, though. When this permit was issued, before there was a 'MH' Mobile Home zoning, the only thing that was in non-conformity was that you had two houses on one property. That was the non-conformity. The other one was that both of the houses were tied into one septic. They each had a septic tank, but they were tied into the same lateral system. If they would have brought this into conformity when it was first raised, all they would have had to do was to plat that and move the house to the second one, and be done with it. If that house had already been placed where it didn't need to be moved, I am of the opinion that a permit wouldn't have had to have been drawn to have brought this into compliance and they wouldn't have had to go through the zone change at all. But because he has to move it, he has to get a permit to move it, and to get a permit, you have to comply with all of the conditions. So it is kind of splitting hairs of conformity. Now he has two non-conformances to deal with, one with the platting subdivision regulations, the setbacks, easements and that, plus the zoning on top of it. So what I was asking for is the nonconformity being because it conforms with the Zoning Code, not the structure itself."

**KROUT** "Even in March of 1997 before later that year, when the Planning Commission and the County Commission changed the zoning requirements to say that you had to have 'MH' zoning, there was still the Conditional Use process in affect. It wasn't allowed by right. So I just don't see any way to consider this to be a legal non-conforming structure. But again, it is really not an issue in the Planning Commission jurisdiction."

**GOODRICH** "Correct. So that means that the only way we have to leave this without a foundation is to change the zoning to 'MH' with a Protective Overlay to keep it from being anything other than a double-wide or anything more than two dwellings on the whole property. If that is what we have to do and that is the only option available, then we would hope that you would support it."

**GAROFALO** "Are there any other questions? Is there anyone else here to speak in favor of this application? Is there anyone here to speak in opposition? I will bring it back to the Commission."

**WARREN** "It would seem to me that our only options are 1) to consider a new plat, which is 52 lots; 2) is to how we are going to zone that Lot 2. One would be 'MH' the other would be 'SF-6'. I personally would prefer 'MF-18' with a Protective Overlay.

One thing I am concerned about though, is that we have had two cases since I have been on this board, and I think maybe three where we have allowed mobile homes for some hardship cases, for parents and things like that. And I hate to see us have something like this 'muddy-up' those waters, like 'well, if we allow it, we are going to deal forever'; because we have had some cases that had merit, I thought, but they did have limitation of time, and that is what gave them merit. Here, we are kind of setting a precedence of what was there, but again, we have two choices, one to look at a new plat and then how are we going to zone it. I am going to be opposed to 'MH' zoning."

**OSBORNE-HOWES** "I think Mr. Warren brings up a good point. That is that we have a situation here where you have a hardship case. I am a little bit concerned, too, that some of these can come in through the back door, so to speak. I think that we, as the Planning Commission, what we have before us is the responsibility to decide whether or not this is an appropriate zoning request for this area."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single-family homes located to the east, west and south on property zoned "SF-20." Most if not all the homes are site built homes. A church is built on the property to the north, zoned "SF-6." The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-20" and could be developed with a use permitted "by-right" in this district. The applicant has not explained to staff why a site built home could not be constructed at this location. Extent to which removal of the restrictions will detrimentally affect nearby property: If this property is rezoned, it could possibly set the precedent to permit other Manufactured Housing zoning in the area. There is a perception that non-residential designed manufactured home detrimentally affect property values of nearby site-built homes. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is shown to be appropriate for low-density residential uses, which this request does comply with. However, the residential locational guidelines recommend, "mobile home parks should be located on larger tracts, buffered by physical barriers (e.g. freeways, drainage ways, other land uses) from traditional single-family neighborhoods." Therefore, this manufactured home which would generally be found in either a Mobile Home Park or subdivision should be buffered from other traditional single-family neighborhoods. This request does not conform to the locational guidelines for manufactured homes. Impact of the proposed development on community facilities: This development should not generate significant traffic nor should it impact other community facilities.) I move that we deny the request.

**WHEELER** moved, **MICHAELIS** seconded the motion.

**MCKAY** "Just for clarification, if we turn this down and the applicant decides he wants to go ahead and move it 50 or 60 feet and put a foundation under it, he does not have to replat, rezone or anything?"

**KROUT** "It is not a platted lot, so he has to plat the lot."

**GAROFALO** "Is there any other discussion? If not, we will take a voice vote on this."

**VOTE ON THE MOTION:** The motion carried unanimously (12-0).

**KROUT** "This case will go on to the County Commission unless they happen to withdraw it."

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**5a. DP-246** – Gerald and Janice Gray (Owners); Oakwood Homes (Lessee); and S.M. Hasan (Agent), request the creation of the Oakwood Homes Community Unit Plan, and

**5b. Z-3333** – Gerald and Janice Gray (Owners); Oakwood Homes (Lessee); and S.M. Hasan (Agent), request a zone change from "SF-6" Single-Family and "LC" Limited Commercial zoning to "GC" General Commercial on property described as:

Beginning 2206.45 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence running East 1323 feet to a point 2208.95 feet North of the South line of said Northwest Quarter; thence North 102.49 feet, more or less, to a point 334.56 feet South of the North line of said Northwest Quarter; thence West parallel with the North line of said Northwest Quarter 1323 feet to the West line of said Northwest Quarter; thence South 94.99 feet more or less to the place of beginning, except the West 280 feet thereof.

and

Beginning 2107.68 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence East parallel with the South line of said Northwest Quarter, a distance of 1323 feet; thence North parallel with the West line of said Northwest Quarter, a distance of

98.77 feet; thence West parallel with the South line of said Northwest Quarter, a distance of 1323 feet to the West line of said Northwest Quarter; thence South along the West line of said Northwest Quarter to the place of beginning.  
and  
Beginning 2,008.91 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, thence East parallel with the South line of said Northwest Quarter, a distance of 1323 feet; thence North parallel with the West line of said Northwest Quarter, a distance of 98.77 feet; thence West parallel with the South line of said Northwest Quarter, a distance of 1323 feet to the West line of said Northwest Quarter; thence South along the West line of said Northwest Quarter to the place of beginning.  
and  
Beginning 1877.21 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence North 131.7 feet; thence East 1323 feet; thence South 131.7 feet; thence West to the point of beginning.  
and  
Beginning 1745.51 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence East 1323; thence North 131.7 feet; thence West 1323 feet; thence South 131.7 feet to the place of beginning, except the West 50 feet thereof for road.  
and  
Beginning at a point 1580.876 feet North of the Southwest corner of the Northwest Quarter of Section 16, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, thence East 1323 feet; thence North 164.634 feet; thence West 1323 feet; thence South 164.634 feet to the point of beginning, except the West 50 feet for road.  
Generally located south of MacArthur and east of Broadway.

**KEITH GOOCH**, Planning Staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting to rezone a 12.09 acre unplatted tract from "SF-6" and "LC" to "GC" General Commercial and create the Oakwood Homes C.U.P. on the 12.09 acre tract plus an additional 5.2 acre unplatted tract currently zoned "GC." This property is located south of MacArthur between Broadway and I-235. Parcel 1 is currently vacant, except for a single-family home, which will be removed, while Parcel 2 is developed with an existing vehicle sales lot and mobile home park. The mobile home park is a nonconforming use and should be removed from Parcel 2 of the C.U.P. This area is not required to be a part of the C.U.P.

The applicant is proposing to split the 17.29 acres into two separate parcels with the north 13.41 acres (Parcel 1) being developed as a manufactured home sales lot (Oakwood Homes). This parcel is requested to have one opening to Broadway, which would line up with the driveway across the street. The driveway across Broadway is the current location for Oakwood Homes. Manufactured homes sales would be the only permitted use on this parcel, as proposed by the applicant. The floor area ratio and maximum building coverage would be limited to 30 percent.

Parcel 2 (3.88 acres) would be limited to "LC" uses as requested by the applicant and also be limited to 30 percent floor area ratio and maximum building coverage. The applicant is not requesting an access opening to this parcel.

The remaining general provisions of the C.U.P. are typically found in most recent C.U.P.s except that the applicant is requesting that the required six to eight foot masonry wall be waived until such time as the property to the north and south be developed with residential property and that no wall is required where adjacent to commercial zoning. Planning staff is in agreement with waiving the wall around the perimeter of the property but due to I-135 being elevated along this property, staff is requesting that a solid row of evergreen trees be planted along the east property line adjacent to I-135.

The applicant is advised that at the time of platting, staff will request the extension of Emporia to the south across this C.U.P. This extension should be shown on the C.U.P. drawing.

There are heavy commercial uses with outside display and storage located to the north, south and west on property zoned "SF-6," "GC," and "LI." East of the application area is I-135.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH: "GC" and "LI" Commercial and industrial uses  
SOUTH: "GC" and "SF-6" Vacant property and commercial uses  
EAST: I-135  
WEST: "GC" Manufactured home sales

**PUBLIC SERVICES:** This property has access to Broadway, a four-lane arterial with current traffic volumes of 14,917. The 2030 Transportation Plan preliminarily estimates these volumes will increase to 18-20,000. There are no improvements forecast in the City of Wichita Capital Improvement Program. This site is provided municipal sewer and water service.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita Land Use Guide of the Comprehensive Plan identifies this area as appropriate for commercial uses. The Plan recommends that commercial developments of this size should be located in "planned centers" versus extended strip developments. Such "centers" should be designed with shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations.

**RECOMMENDATION:** The C.U.P. requested by the applicant does generally meet the requirements for controlled access, architectural controls and other requirements which have been placed upon most Community Unit Plans recently approved. Therefore, Planning staff is recommending the request be APPROVED, subject to platting the property within 1-year and the following conditions:

1. The southern 164.66 feet of Parcel 2 shall be removed from the C.U.P.
2. General provisions #9 shall also include the following; "a solid row of evergreen trees shall be planted and maintained along the east property line of Parcel 1."
3. The words "and screening" shall be removed from general provision #10.
4. Parcel 1 and 2 shall be limited to one opening a piece with these openings located 300 feet from each other and any opening to the north or south of these openings along the east side of Broadway. At the time of platting, the applicant shall guarantee the closure of the existing openings on Parcel 2.
5. A provision shall be provided for cross lot access between the two parcels and also the property to the south and east of this property.
6. At the time of platting, the applicant shall show a contingent dedication for the extension of Emporia across this property and a guarantee to the paving of this roadway.
7. Only those signs permitted in the "LC" zoning district shall be permitted on this site. No temporary display signs are permitted on any parcel developed with auto or manufactured home sales, including the use of commercial flags, banners, portable, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted. However, in addition to the above, affixed banners or special promotional items shall be limited to twelve (12) events per year not to exceed ninety (90) days per year for all events.
8. Parcel description 1 shall read as follows:  
  
Gross Area 13.41 acres  
Maximum Building Coverage 175,241 square feet  
Maximum Gross Floor Area 175,241 square feet  
Floor Area Ratio 0.30  
Maximum Building Height 35 feet  
Permitted uses Sales center for manufactured home and vehicle sales and other uses permitted in the "LC" zoning district  
  
Parcel 2  
Gross Area 3.88 acres  
Maximum Building Coverage 50,704 square feet  
Maximum Gross Floor Area 50,704 square feet  
Floor Area Ratio 0.30  
Maximum Building Height 35 feet  
Permitted uses Sales center for manufactured home and vehicle sales and other uses permitted in the "LC" zoning district
9. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
11. Prior to publishing the ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-246) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of both C.U.P.'s to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are vehicles and manufactured home sales lots located to the south, west and east as well as other heavy commercial and industrial uses. Interstate 135 is located just east of this property.



2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-6," "LC" and "GC." It seems highly unlikely due to the interstate, Broadway and the heavy commercial uses that surround this property that the application area is suitable for residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant is attempting to rezone this property, similar to how the property is used which abuts it. Therefore, this should not detrimentally affect the nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request does conform to the Land Use Guide of the Comprehensive Plan, which identifies it as appropriate for commercial uses.
5. Impact of the proposed development on community facilities: Additional traffic will be generated by this use, but Broadway is not at capacity for a four-lane arterial and should be able to manage the additional traffic. No impact is expected on municipal water and sewer.

**CARRAHER** "Mr. Chair, I am going to remove myself from issues 5a and 5b since I voted on them at CPO Council 4, which is my CPO, and that would constitute a conflict of interest."

**GOOCH** "There is one thing I want to point out in the conditions. Item No. 1 should be removed. That is the area that is a mobile home park. It is a non-conforming use. It will be permitted to play. It is kind of like the same thing you heard in the previous case. As long as remains there and there are no problems, they can keep using it as a mobile home park; if it isn't destroyed by a tornado or something, it is a non-conforming use."

**WARREN** "Where is that?"

**GOOCH** "It is the red portion right here (indicating). The pink portion is developed with a body shop and a sales lot. This area right here is developed with a mobile home park."

**GAROFALO** "Keith, where is the car lot?"

**GOOCH** "It's the front half of the pink portion right there. The back half is a body shop."

**GAROFALO** "Will that remain a car lot as far as you know?"

**GOOCH** "As far as I know, yes. It is permitted through the CUP that we are establishing here."

**WARREN** "What are you going to use it for? Does it go anywhere?"

**GOOCH** "If you look here to the south on these parcel maps that I have over here, there are parcels broken out, elongated parcels. Some of them are broken out, as you see on this Allison Addition. There is a back half that is zoned 'SF-6'. It is under the same ownership, but they are broken out separately so there is a possibility in the future that those could be sold off for other people and there would be no way to provide access to them to get out in the future in this area. Before, it could serve as access to the back half of some of these lots."

**KROUT** "We are talking about a contingent dedication though, so it is not like the street will be immediately constructed. It is only if and when there is continuation of the development to the south."

**WARREN** "And what would trigger that?"

**KROUT** "A street petition and development request in that locked up area."

**GAROFALO** "Keith, did you say that we are to strike condition No. 1?"

**GOOCH** "Strike it, yes."

**GAROFALO** "Item 4 says Parcels 1 and 2 shall be limited to one opening apiece."

**GOOCH** "Right. On the CUP they submitted, on Page 11 there, it talks about access control, driveways on the development on the south property shall line up with any existing driveway on the left side of Broadway. They didn't talk about Parcel No. 2 having any openings, so I am not sure if they are asking for one or not. But what staff is requesting is that each parcel have one opening, and they be separated by 300 feet from each other, and any openings to the north, or to the south from the east side of Broadway."

**GAROFALO** "That is staff's recommendation?"

**GOOCH** "Yes, that is what staff is recommending."

**WARREN** "Are we required to replat?"

**GOOCH** "It isn't platted yet; they would have to plat."

**WARREN** "This is all unplatted?"

**GOOCH** "Yes. The only property that is platted is there to the north of the application, and a couple of pieces here to the south. So, most of this around here is unplatted."

**WARREN** "Those openings would show up in the plat?"

**GOOCH** "Yes. If you look at the aerial, south is to the top and north is to the bottom. It is flipped around a little bit."

**GAROFALO** "Are there any other questions of staff?"

**OSBORNE-HOWES** "Just a real brief question. I notice that on No. 7, you talked about display signs commercial flags and banners and pennants, and such, which we often times talk about car lots as well, but I don't see anything here about outside speakers. I thought maybe I had just missed it."

**GOOCH** "You got me again. I missed that, didn't put it in."

**OSBORNE-HOWES** "Wouldn't you expect that to be in there?"

**GOOCH** "Generally what we have done lately is put it in."

**WARREN** "On this Emporia Street extension, now we are going to get a plat on this, obviously, if it goes any further, and are you asking him to plat Emporia Street in there as a contingent plat?"

**GOOCH** "A contingent dedication."

**WARREN** "How are you going to configure it? Who is going to decide that?"

**GOOCH** "At the time of platting, I think they can submit what they would like and then Traffic Engineering will review it and see if however they have designed it is appropriate or not. It will kind of be between the applicants and Traffic, and then the Subdivision and Planning Commission will also have their say. I can't tell you today what it is going to work like."

**WARREN** "I can see that if, in fact, Emporia was brought to there at the request of somebody in the south, it could be horribly expensive. He would have to pay for all of Emporia Street and down through the application area."

**MICHAELIS** "Keith, could you go back to that aerial? Where is Emporia on there? Is that that little kind of like a drive-way there? So it does not continue on north. It is just what, half a block or so?"

**WARREN** "Show me on that map to the south then, how you envision Emporia might somehow come into play, going on south of this applicant's area?"

**GOOCH** "It kind of swoops back here a little bit. It goes on down through and comes back out, maybe here?"

**WARREN** "Isn't that kind of a stretch of the imagination? Or a stretch of the dedication?"

**GOOCH** "Well, it is a contingent dedication, so they might never need it, and it might never be able to be built."

**WARREN** "But it might have an effect on how he would use this lot down here, particularly if he is going to put a building on it."

**GOOCH** "I understand all of that, but they are only going to have one building and that is going to be around Broadway and the rest is going to be storing of the manufactured homes for sale."

**GAROFALO** "I think we are ready to hear from the applicant or agent."

**LARRY WEINS** "Mr. Chair and Commission members, I represent Oakwood Homes and I am here on behalf of the applicant. I live at 806 Lazy Creek, in Newton, Kansas. Really, the only thing I have to say on behalf of Emporia Street, it would be our preference, naturally, that that would never come in. If it did, however, it wouldn't really affect us. I think we can work it out, the way it looks like it would come in, it would be set back far enough to where the division of the property really wouldn't affect us. Our sales office will be more towards the front, more towards Broadway with display models set up in that area and inventory more towards the back. So, from our standpoint, Emporia is not a determining factor as to whether this site works or doesn't work. It doesn't matter to us, but to the people who own the property with regard to the costs they may incur on this in the future, she may want to address that, but again, from our standpoint, it is not real important."

**GAROFALO** "Are you in agreement with the conditions that are outlined in the staff report?"

**WEINS** "Yes, sir."

**GAROFALO** "Will you answered the question I had about accesses? Do you, or do you not want an access onto Parcel 2?"

**WEINS** "We are not concerned with Parcel 2 ourselves, because our lease and what we are doing is all on Parcel 1, and we would have one approach into the property that would go back to the sales office and of getting the houses and taking them back to the inventory section."

**WARREN** "Mr. Chair, did I hear you right, are you saying that there is no access to Parcel 2? I thought we had one to Parcel 2 and one to Parcel 1."

**GAROFALO** "I was just going by what it says here on Page 2."

**WARREN** "I was looking at the recommendations."

**GAROFALO** "This says that the applicant is not requesting an access opening to this Parcel. Then over here, it says each one will have an access."

**WARREN** "I didn't realize that."

**GAROFALO** "Keith, can you clarify?"

**GOOCH** "I would have to say that in my estimation that this was the gentleman from Florida who did this CUP. He possibly didn't understand the process here in Wichita, and didn't outline it exactly. He works for Oakwood Homes, so I think he was more concerned with Parcel 1 than he was with Parcel 2. He didn't go into great detail on Parcel 2, so he inadvertently left that off, I believe. So, I would have to say that the background section especially detailed what is on the CUP; however, I don't think that is what the applicants are really requesting, if you would talk to them. They do need at least one opening to Parcel 2."

**GAROFALO** "Are there any other questions of the applicant? Okay. Is there anyone else here to speak in favor of this application?"

**JANICE GRAY** "I live at 1135 Glenwood Court in Wichita. I am the owner of two of the properties involved. My son owns the third. We are in favor of Oakwood Homes being able to use these parcels as Manufactured Homes sales. We have been concerned with the cost of this if it did come through, but we have tried, numerous times, to get answers on this and can't. I think that one of the photos he showed where what would be Emporia now enters off of MacArthur Road is right up next to I-135. Why it is showing differential property, and it is a fact that this property has just been purchased over the last 10-15 years, and nothing is on deeds or anything showing where they have the right to take a certain amount for Emporia, but they say they do. We do have some concerns on that, but there is commercial property all around us. We know that at some point that this land in there will go commercial and there is not a whole lot we can do, when we are dealing with the City and zoning, about what amount of your property they will take."

**GAROFALO** "Ma'am, are you saying that the map there is incorrect regarding Emporia, showing where Emporia is?"

**GRAY** "I am just saying..."

**GAROFALO** "Where do you say it is?"

**GRAY** "Okay, he had one slide that showed the Interstate running down....see, we lived on MacArthur Road for 30 some years, and just moved within the past two years. The entrance of what they said might one day be Emporia is right up next to..."

**GAROFALO** "Will you go to the slide?"

**GRAY** (Indicating) "This is the Interstate, and that opening that is Emporia is like a drainage ditch."

**WARREN** "What is this other one over here in the middle they are calling Emporia?"

**GRAY** "I don't know what Emporia is. This is all business. This is Olson's. He has everything up to this right here."

**GAROFALO** "Is that just a drive-way?"

**GRAY** "Well, he has driveways into his businesses. This right here is a driveway into his business."

**WARREN** "And that is not Emporia Street?"

**GRAY** "No. This is all business right here from Broadway back. This gentleman that has this car lot owns all of this, back."

**WARREN** "Where does Emporia north at that point, do you have any idea?"

**GRAY** "North? Emporia? Well, you can get on Emporia off of 47<sup>th</sup> Street."

**WARREN** "But you can't get onto Emporia off of MacArthur?"

**GRAY** "No. There is no Emporia off of MacArthur at this time."

**KROUT** "Is that the right-of-way he is showing?"

**WARREN** "It has to be."

**GOOCH** "What I said was Emporia is unimproved, but it is dedicated for right-of-way. It has never been improved. That is what I was estimating, that that driveway was right there at the location where Emporia would be."

**GAROFALO** "But there actually is a street at this point, designated as Emporia?"

**MCKAY** "Designated right-of-way for it."

**GOOCH** "Right."

**WARREN** "But we don't know for sure where it is."

**GOOCH** "Yeah. Through the plats on the east and west, they have dedicated an Emporia right-of-way. (Indicating) It is shown here. That is Emporia, right there."

**OSBORNE-HOWES** "And down at the bottom, is that Emporia there?"

**GOOCH** "Well....maybe and maybe not."

**KROUT** "It looks like what happened was that there was a zoning request, but for some reason there was not a requirement to plat that was associated with it, but the zoning was only granted for the area outside of the prospective extension for Emporia. That is what it looks like to us. It is probably very old zoning."

**GAROFALO** "Marvin, she says that she can't get any answers regarding the cost of extending that."

**KROUT** "Has there been any inquiries about the cost of the Emporia extension?"

**GOOCH** "I thought they would be around...she should talk to Paul Gunzelman in Traffic Engineering. I guess she hasn't had an opportunity to get hold of him."

**GRAY** "He is hard to get hold of."

**KROUT** "We probably have an agent in the audience who can tell us what the current price is per running foot of a commercial street. Is it over \$100?"

**GARY WILEY** (From the audience) "Oh, yes."

**KROUT** "Over \$150?"

**WILEY** "In the \$100 to \$150 range."

**WARREN** "Both sides and curb and gutter?"

**WILEY** "Yeah."

**KROUT** "Somewhere between \$40,000 and \$70,000 probably, to get that section of Emporia to the commercial streets."

**MCKAY** "Yes, but there is going to have to be a petition system, and..."

**KROUT** "It would have to be triggered by an overall petition, approved by the City Council."

**MCKAY** "Not only her, but the people just south of MacArthur will have to petition."

**KROUT** "And a public hearing in front of the City Council."

**WARREN** "John, I don't want to disagree with you, but she does not have to enter into a petition. If there is a benefit district established south of there and it becomes more than 51% and the dedication is made, or triggered, she doesn't have to join the petition to be in that benefit district."

**MCKAY** "If you owned that land to the south, would you do that?"

**WARREN** "Well, somebody on staff is suggesting that it might happen."

**MCKAY** "No, they just want the right-of-way."

**WARREN** "For what?"

**MCKAY** "Just because they can get it free now. That is the only reason they want it."

**WARREN** "That bothers me."

**MCKAY** "It bothers me, too, but that is the reason why they want it, so they don't have to go through this process in the event something does happen to this on the south, they already have the right-of-way and they can trigger it."

**WARREN** "I don't know whether or not we have the right to make that a condition of zoning, a condition of platting, unless we have good cause for a street."

**HENTZEN** "Marvin may be able to answer this question, what alternatives does the City have if we grant this without that dedication? If ever they need it, can they not condemn what they want?"

**KROUT** "They can condemn property, but CUP could allow buildings to be constructed on it, and you are going to zone it commercial, which is going to add to the cost of it someday. Typically, this is the time when you are platting property, and you are platting a lot of acreage property in subdivisions all of the time, and you require dedication and you require petitions for street improvements. Eventually, this land can take on all kinds of uses, can be developed more intensively. This could be some kind of retail or motel development. If you think about it, just down at 47<sup>th</sup> Street and Broadway there is an internal street, there is an extension of Emporia, and there if there are developments that are off of that internal street that aren't just facing Broadway and 47<sup>th</sup> Street, and I think we have a quarter mile of land of mile there between Broadway and the Expressway with no other access, the idea of providing for the possibility of future subdivision and future interior lot development on a street system, and being able to get access to both Broadway and MacArthur, to us, it makes a lot of sense for about a 100 acre area along Broadway that could be developed fairly intensively."

**MCKAY** "Why don't we do it like we did that piece of property on West Maple? The shopping center just west of Ridge Road. We utilized their parking area as a drive-through from Maple down to University Street."

**KROUT** "This property can be used for mobile home sales or for any other purpose. It is just that it can't be built on because of the contingent right-of-way."

**MCKAY** "Can't we do it like we did on West Maple? We used their parking lot for a drive-through from Maple to University. It is a lot higher of a density factor in that area than this is going to be."

**KROUT** "There wasn't a requirement,...you left the bench for a little while, there wasn't a requirement for a dedication on that one."

**MCKAY** "No, no, I understand that."

**KROUT** "There is a private garage there. If you don't feel that the right-of-way is necessary, we are kind of getting into a platting issue, but it is a CUP, you could require setbacks to be established, but there is a reserve there, so at least there aren't any buildings on it. You could require that the right-of-way be dedicated, but not require any petitions."

The only thing that is going to trigger a petition is through a hearing process whereby this owner and other owners would be able to address the City Council about that issue. I don't think it is good planning for the future if you don't keep that contingency in mind."

**WARREN** "I agree, by and large that we should. We ought to provide for the ingress/egress movement of traffic, any time there is a threat. I don't see this as that case at all."

**GAROFALO** "Are there any other questions of the applicant? Is there anyone here to speak in opposition to this application? If not, I will return it to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are vehicles and manufactured home sales lots located to the south, west and east as well as other heavy commercial and industrial uses. Interstate 135 is located just east of this property. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-6," "LC" and "GC." It seems highly unlikely due to the interstate, Broadway and the heavy commercial uses that surround this property that the application area is suitable for residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicant is attempting to rezone this property, similar to how the property is used which abuts it. Therefore, this should not detrimentally affect the nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: This request does conform to the Land Use Guide of the Comprehensive Plan, which identifies it as appropriate for commercial uses. Impact of the proposed development on community facilities: Additional traffic will be generated by this use, but Broadway is not at capacity for a four-lane arterial and should be able to manage the additional traffic. No impact is expected on municipal water and sewer.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. APPROVE the zone change (Z-3333) to "GC" General Commercial, subject to platting of the entire property within one year.

B. APPROVE the Community Unit Plan (DP-246), subject to the following conditions:

1. General provisions #9 shall also include the following; "a solid row of evergreen trees shall be planted and maintained along the east property line of Parcel 1."
2. The words "and screening" shall be removed from general provision #10.
3. Parcel 1 and 2 shall be limited to one opening apiece with these openings located 300 feet from each other and any opening to the north or south of these openings along the east side of Broadway. At the time of platting, the applicant shall guarantee the closure of the existing openings on Parcel 2.
4. A provision shall be provided for cross lot access between the two parcels and also the property to the south and east of this property.
5. For a period of 20 years, no buildings may be constructed in the possible extension of Emporia across Parcel 1.
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site. No temporary display signs are permitted on any parcel developed with auto or manufactured home sales, including the use of commercial flags, banners, portable, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted. However, in addition to the above, affixed banners or special promotional items shall be limited to twelve (12) events per year not to exceed ninety (90) days per year for all events.
7. Parcel description 1 shall read as follows:

Gross Area	13.41 acres
Maximum Building Coverage	175,241 square feet
Maximum Gross Floor Area	175,241 square feet
Floor Area Ratio	0.30
Maximum Building Height	35 feet
Permitted uses Sales center for manufactured home and vehicle sales and other uses permitted in the "LC" zoning district	
Parcel 2	
Gross Area	3.88 acres
Maximum Building Coverage	50,704 square feet
Maximum Gross Floor Area	50,704 square feet
Floor Area Ratio	0.30
Maximum Building Height	35 feet
Permitted uses Sales center for manufactured home and vehicle sales and other uses permitted in the "LC" zoning district	
8. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
9. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
10. Prior to publishing the ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-246) includes special conditions for development on this property.
11. The applicant shall submit 4 revised copies of both C.U.P.'s to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

**WARREN** moved, **HENTZEN** seconded the motion.

**MCKAY** "Ray, are you saying that on the CUP that they have to give an easement down through there? Is that what you are saying? Like Marvin said, with setbacks and they won't build buildings on it?"

**WARREN** "The CUP can provide for a proposed extension of Emporia Street without dedication. In that CUP draft of the proposal they would agree not to build a building in that area for a period of 20 years."

**KROUT** "And the plat would not show right-of-way; it would probably not show setbacks either. We would just rely on the CUP to protect that area."

**WARREN** "That's right. It would at least protect the cost for the future of that road coming down through there."

**GAROFALO** "Would it have to show up on the site?"

**KROUT** "I don't think so, because 20 years from now, you could have setbacks, but then you would have to vacate if you wanted a reserve; you would have to vacate if you wanted to use it. So, I suggest that you just show it on the CUP and not show anything on the plat."

**MICHAELIS** "I guess my question on that is, if we do something like that without a definition of where that applies to, we are essentially saying that they can't build any building anywhere on that property."

**WARREN** "No, Jerry, I am saying to go ahead and show it on the CUP. The proposed extension of Emporia acceptable to everybody concerned, and agree not to build in that area."

**MICHAELIS** "Okay. I didn't catch that."

**OSBORNE-HOWES** "Would you also add 'no outside speakers allowed'?"

**WARREN** "Just for you, Susan."

**MCKAY** "Well, and staff recommended removing No. 1 also, Ray."

**WARREN** "Well, that would be under staff recommendations. I meant for all staff recommendations to be included in that."

**VOTE ON THE MOTION:** The motion carried with 11 votes in favor. There was no opposition. Carraher abstained.

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6. **Case No. CU-539** – Advantage Properties (owner/applicant); John Tassett (Agent) requests a Conditional Use to allow ancillary parking on property described as:

Lot 9, Block AA, Audrey Matlock Heights First Addition, Wichita, Sedgwick County, Kansas. Generally located north of 21<sup>st</sup> Street North and east of Prince.

**LISA VERTS**, Planning Staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to allow off-street parking on property zoned "SF-6" Single-Family Residential. The property is located north of 21<sup>st</sup> Street North and east of Prince; it consists of one vacant lot that is 60 feet wide by 100 feet long and fronts on Prince. According to the applicant, this parking will be used as additional parking for County Personnel in the adjacent Kay Plaza strip center.

The site is bordered to the north and west by single-family homes on property zoned "SF-6" Single-Family Residential. To the south is a vacant lot that is zoned "LC" Limited Commercial. The property to the east has a single-family home on property zoned "SF-6" Single-Family Residential and an Optometry office on property zoned "GO" General Office.

The applicant has provided a site plan for the development of the parking area. The parking lot will accommodate sixteen (16) parking spaces and be screened with a six-foot wood fence along the north boundary and the north 25 feet of the east boundary; this screening is required on all boundaries adjacent to residentially zoned property. This site will be required to meet the requirements of the City of Wichita Landscape Ordinance. A landscaping plan has been submitted for the approval of the Planning Director.

The lot currently has an 8-foot half-utility easement along the rear property line. In an attempt to upgrade these easements to today's standards, the City of Wichita will ask for an additional 2 feet of utility easement to bring the total easement up to 20 feet.

**CASE HISTORY:** The subject property is in the Audrey Matlock Heights 1<sup>st</sup> Addition, which was platted January 16, 1951.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" – Single-Family Home  
SOUTH: "LC" – Vacant  
EAST: "SF-6" & "GO" – Single-Family Home and Optometry Office  
WEST: "SF-6" – Single-Family Home

**PUBLIC SERVICES:** Municipal water and sewer is available to this site. Prince Street, a local street, provides access to this site, but no traffic volumes are available

**CONFORMANCE TO PLANS/POLICIES:** The Land Use map of the Comprehensive Plan identifies this area as appropriate for Low Density Residential and part of a "Re-establishment" area. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate.

**RECOMMENDATION:** Based on information available prior to public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Development of the parking lot shall comply with the submitted site plan, an approved Landscape plan, and with the standards listed in Section III-D.6.p of the Unified Zoning Code.
2. The applicant shall dedicate an additional 2 feet of utility easement along the rear property line by separate instrument.
3. Any violation of the conditions approved as part of this request shall render the conditional use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the south of this property is transitional in nature. This use, although mixed with existing residential homes, provides a relatively low-impact transition from commercial uses along 21<sup>st</sup> Street North to low-density residential uses. The required landscaping along Prince and the solid fencing should help to minimize the impact on the surrounding residential uses.
2. Suitability of the subject property for the uses to which it has already be restricted: The site is currently zoned "SF-6" Single-Family Residential and could remain as such; however the lot has been vacant for some time without any move to build a single-family home. The proximity to 21<sup>st</sup> Street North makes this lot less than ideal for the construction of a new home.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Given that the lot is currently vacant and unattended, regular upkeep of landscaping and driveways should add to the appearance of the neighborhood. This use should not detrimentally affect any nearby property given the screening requirement.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan recognizes this area as a transition region and would support commercial uses. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate.
5. Impact of the proposed development on community facilities: The proposed parking areas will not require municipal sewer and water services, except for landscaping requirements. Prince is a paved street, which will be minimally impacted by the increase in traffic.

**VERTS** "CPO Council 1 did not have a quorum to vote on this. I will answer any questions that you have."

**BARFIELD** "Do you know if there are any restrictive covenants on this piece of property?"

**VERTS** "I am not aware of any."

**GAROFALO** "Are there any other questions of staff? We will hear from the applicant."

**GREG BARNES** "I am with Advantage Properties. We are running out of parking space. We tried to purchase the land across the street from the City, but the City wouldn't sell it. This is the only land that is available to us to purchase. In order to get more renters in, we need more parking space."

**BARFIELD** "What is the occupancy rate for Kay Plaza right now?"

**BARNES** "About 90 per cent."

**BARFIELD** "Okay. So what are you going to do for parking when you get the other 10 per cent in?"

**BARNES** "That is why we need this here. We need an extra 16 spaces."

**BARFIELD** "It is my understanding that you want this for the people who work at the Health..."

**BARNES** "Yeah, the Health and Welfare Center."

**BARFIELD** "So, how many parking places are we talking about?"

**BARNES** "They have a total of 25 employees. We have enough for them in the parking lot, with the 16 and then we could ut 4 right behind that. It is paved in the back. We can put parking spaces in the back."

**GAROFALO** "Okay. Are there any other questions? Thank you. Is there anyone else here to speak in favor of this application? Is there anyone here to speak in opposition? Okay. We will bring it back to the Commission."

**KROUT** "Just by way of explanation, I do remember that the inquiry came about buying the City lot across the street for this extra parking. Staff thought it wasn't a good idea to encourage people to be parking across 21<sup>st</sup> Street from where they were going to be working and walking across the street regularly every day. There isn't any kind of protection. We did encourage the applicant to



look at the adjacent property, and that is exactly what he has done. I also think he has done a great job of re-doing this center and doing it, unlike a lot of projects on 21<sup>st</sup> Street, without any City assistance. I just want to take the opportunity to bring that up."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The area to the south of this property is transitional in nature. This use, although mixed with existing residential homes, provides a relatively low-impact transition from commercial uses along 21<sup>st</sup> Street North to low-density residential uses. The required landscaping along Prince and the solid fencing should help to minimize the impact on the surrounding residential uses. Suitability of the subject property for the uses to which it has already be restricted: The site is currently zoned "SF-6" Single-Family Residential and could remain as such; however the lot has been vacant for some time without any move to build a single-family home. The proximity to 21<sup>st</sup> Street North makes this lot less than ideal for the construction of a new home. Extent to which removal of the restrictions will detrimentally affect nearby property: Given that the lot is currently vacant and unattended, regular upkeep of landscaping and driveways should add to the appearance of the neighborhood. This use should not detrimentally affect any nearby property given the screening requirement. Conformance of the requested change to adopted or recognized Plans/Policies: The Comprehensive Plan recognizes this area as a transition region and would support commercial uses. The MAPC has an unofficial policy of supporting the expansion of existing businesses when appropriate. Impact of the proposed development on community facilities: The proposed parking areas will not require municipal sewer and water services, except for landscaping requirements. Prince is a paved street, which will be minimally impacted by the increase in traffic.) I move that we recommend to the governing body that the request be approved, subject to the following conditions:

1. Development of the parking lot shall comply with the submitted site plan, an approved Landscape plan, and with the standards listed in Section III-D.6.p of the Unified Zoning Code.
2. The applicant shall dedicate an additional 2 feet of utility easement along the rear property line by separate instrument.
3. Any violation of the conditions approved as part of this request shall render the conditional use null and void.

**HENTZEN** moved, **WHEELER** seconded the motion.

**OSBORNE-HOWES** "Is that subject to staff comments?"

**HENTZEN** "Yes, subject to staff comments, without any flags being waved up there."

**VOTE ON THE MOTION:** The motion carried unanimously (12-0).

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7. **Case No. CU-538** – Steven L. Greer; Tolliver & Mildred Matthews (Owner/Applicants) request a Conditional Use to allow a temporary accessory manufactured home, on property described as:  
The East 330 feet of the West 720 feet of the South 960 feet of the Southeast Quarter except the South 726 feet and 1/2 vacated Midland-Valley ROW, Section 33, Township 28 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.  
Generally located north of 71<sup>st</sup> Street South and east of Ida Avenue.

**LISA VERTS**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant requests a Conditional Use to allow an accessory manufactured home on 2 unplatted acres zoned "SF-20" Single-Family Residential. The application area is located north of 71<sup>st</sup> Street South on the east side of Ida Avenue. The applicant is doing major remodeling on the site-built home that exists on the property and requires temporary living facilities while this is being done. The applicant anticipates the remodeling project to be completed in one year.

The applicant has indicated on the site plan the location for the temporary manufactured home, east of the existing home and towards the rear of the lot. This location meets all the zoning setback requirements. Access to the temporary manufactured home will be along the existing driveway and north of the existing home to the site of the temporary home.

The surrounding uses are primarily single-family homes on property zoned "RR" Rural Residential and "SF-20" Single-Family Residential. There is a communication tower (one of two in the immediate area) directly east of the site. Across Ida Avenue and west of the site there is a single-family home with an accessory automotive workshop.

The Unified Zoning Code allow the placement of a temporary single-wide manufactured home while a "single-family dwelling is being constructed on the same lot" without a Conditional Use permit. County Code Enforcement has taken the literal interpretation of the Code and excludes home remodeling as an allowable condition for the temporary use without a

Conditional Use. This condition triggers the need for this application for a Conditional Use under Section III-D.6.I.(3) of the Unified Zoning Code.

Section III-D.6.I.(3) of the Unified Zoning Code permits manufactured homes as accessory structures provided:

- (a) The location of the manufactured home shall conform to all setback requirements of the district in which located;
- (b) The lot area for the manufactured home need not comply with the area requirements of the zoning district, provided that the unit is connected to a public water supply and a municipal-type sewer system, the minimum lot size shall be determined by the County Health Department;
- (c) The unit shall comply with all of the standards of Section III-D.6.I.(2);
- (d) The applicant shall show due cause that hardship exists and that the hardship cannot reasonably be alleviated without the granting of the Conditional Use; and
- (e) The Planning Commission shall determine a reasonable time limit for each individual case. The manufactured/mobile home shall be removed from the property within 90 days after any change in the circumstances used as a basis for the Conditional Use.

**CASE HISTORY:** None.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" & "SF-20" – Vacant  
SOUTH: "SF-20" – Single-Family Home  
EAST: "SF-20" – Communication Tower and Vacant  
WEST: "RR" & "SF-20" – Single-Family Home with accessory automotive workshop

**PUBLIC SERVICES:** There is a water well and septic system on site that services the main structure; these will be used for the temporary manufactured home. Ida Avenue, a local street, provides access to the site, but no traffic volumes are available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" uses. This category has the intent of protecting agricultural resources and is meant to accommodate agricultural operations on substantial acreage.

**RECOMMENDATION:** Based on information available prior to public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- 1. The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Section III-D 6.I.(3) of the Zoning Code shall be met.
- 2. The accessory home shall remain on the site as an accessory dwelling for the applicant and his family while the existing site-built home is being remodeled.
- 3. The manufactured home shall be removed from the property within 90 days after final remodeling of the existing home is finished, (no longer than one year).
- 4. The temporary manufactured home shall be placed on the site as indicated on the site plan.
- 5. Any violation of the conditions approved as part of this request shall render the conditional use null and void.

The staff's recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The application area and all property adjoining it are zoned "SF-20" or "RR" Residential. The area is characterized by large lot single-family homes and agricultural uses.
- 2. Suitability of the subject property for the uses to which it has already be restricted: The Code permits a temporary, accessory manufactured home in the "SF-20" Single-Family Residential District provided the applicant and the site meet the specified criteria; both appear to do so. The site could continue to be used as currently zoned, but the applicant would not be able to remodel his home and live on the property at the same time.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Given the rural nature of the application area and the temporary nature of the use, there should not be any detrimental effects on nearby property.
- 4. Conformance of the requested change to adopted or recognized Plans/Policies: The plan does not speak specifically to accessory homes in rural areas of the county. The Zoning Code anticipated these uses and made specific

provision for the process. This site appears to comply with all of the provisions outlined in the code. Approval of this request will go against any Comprehensive Plan policies or guidelines.

5. Impact of the proposed development on community facilities: None identified.

**VERTS** "The Haysville Planning Commission voted unanimously to approve this Conditional Use. The applicant is in agreement with all of the conditions. Are there any questions?"

**OSBORNE-HOWES** "What if it takes ten years to build this? It says after the home is finished, whenever it is finished."

**VERTS** "As part of the Conditional Use, we can stipulate a time limit. On the last part of Condition No. 3, it says 'no longer than one year'."

**WARREN** "Where did you say you implied that they were only going to have it for one year?"

**VERTS** "In Item No. 3, on Page 3."

**WARREN** "Oh, okay."

**OSBORNE-HOWES** "So that means after one year, he has 90 days?"

**VERTS** "That is correct."

**OSBORNE-HOWES** "Okay. That is okay then."

**HENTZEN** "Do you know, when you take out a permit to remodel a house, how long can it run for?"

**VERTS** "One year."

**HENTZEN** "Let me just add a little bit to this discussion. Oftentimes when fires occur in homes, we get requests to pull in a trailer and put the family up in a trailer. All I am saying to you is that a years' time to remodel that house, unless they are doing it part-time or by themselves, is an awfully long time."

**VERTS** "I believe the applicant is doing it himself."

**HENTZEN** "Okay. Has the permit been taken out on this house yet?"

**VERTS** "The applicant can better answer that."

**MICHAELIS** "Basically, I would rather see it say removal within 90 days of final inspection. Because if the remodeling was done in 90 days and the final inspection was 90 days after that, then I agree with you, the chances are it is not going to take a year to do that remodeling, so why give more time than we would have to?"

**HENTZEN** "I think with a permit, it either has to be completed within that time, or they have to ask for an extension of time from the Code Enforcement people, which sometimes happens. Say you grant this and the man is doing it himself and he has a serious illness and it delays him."

**GAROFALO** "The year would start when? The day of approval by the County? Oh, no, this is a Conditional Use. I think our Inspector was shaking his head 'no' about a year."

**GEORGE BLOESING**, Sedgwick County Zoning Inspector, "That is incorrect, also. When a permit is issued, the permit is valid for 180 days. You can get one extension of an additional 180 days. So, in Sedgwick County, the permits are issued before. They have to be completed, or have the final inspection within 180 days, but you can get one extension."

**GAROFALO** "Are there any other questions?"

**MCKAY** "On Item B, it talks about 'multi-type sewer can be approved by the County Health Department'. That means that there is no sewer here?"

**VERTS** "He has his own septic system and well on site for the temporary use."

**MCKAY** "I just didn't know what multi-type sewer system was."

**VERTS** "A Municipal type, I think. That is what the Code says."

**GAROFALO** "Are there any other questions? Okay. We will hear from the applicant."

**STEVE GREER** "I live at 7058 South Shalin drive in Haysville, currently. We agree to everything they have said and yes, we are doing it ourselves. My brother-in-law, who is in construction and my father-in-law has even volunteered to help, and myself. We are going to gut it out through the winter-time, and then hit it hard in the Spring, when the weather turns decent."

We don't want the mobile home there any longer than it has to be, because we don't want it in the middle of our patio out back. If you have any questions, I will attempt to answer them."

**MICHAELIS** "Would you be opposed to something like I was talking about, that we put more of a restrictive time limit on it to have it be 90 days upon completion?"

**GREER** "I don't have a problem with that. The way the plan is drawn out now, we are going to start it in March and hopefully be moving in by Labor Day weekend next year. Then 90 days will figure to the end of the year. But if we get finished earlier and 90 days starts on the time of completion, I have no problem with that."

**MCKAY** "Well, I think we might have a clarification on when it starts. It starts today, according to this, but we need to put something in there. Do you have a building permit issued yet?"

**GREER** "Not yet."

**MCKAY** "If it is 30 days before you get that building permit or something, you will have lost one month there. Then you've got a year in here, but we have a bunch of other stuff."

**KROUT** "You might say something like this, 'the Manufactured Home shall be removed from the property 90 days after the final inspection of the existing home, and under no circumstance shall remain more than 15 months from the issuance of a remodeling permit'."

**WARREN** "When are you going to move it in?"

**GREER** "The moment you all say yes. I believe the two-week period ends the 30<sup>th</sup>, so on the 1<sup>st</sup>. I am already on vacation, so I can move. I want to move so that we can get set up and get going. We are going to move the mobile home in right away. We are currently living in the mobile home, paying lot rent. That will save us some money on lot rent to apply to house and such."

**GAROFALO** "Are there any other questions? Thank you. Is there anyone else here to speak in favor of this application? Is there anyone here to speak in opposition? Okay, I will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The application area and all property adjoining it are zoned "SF-20" or "RR" Residential. The area is characterized by large lot single-family homes and agricultural uses. Suitability of the subject property for the uses to which it has already be restricted: The Code permits a temporary, accessory manufactured home in the "SF-20" Single-Family Residential District provided the applicant and the site meet the specified criteria; both appear to do so. The site could continue to be used as currently zoned, but the applicant would not be able to remodel his home and live on the property at the same time. Extent to which removal of the restrictions will detrimentally affect nearby property: Given the rural nature of the application area and the temporary nature of the use, there should not be any detrimental effects on nearby property. Conformance of the requested change to adopted or recognized Plans/Policies: The plan does not speak specifically to accessory homes in rural areas of the county. The Zoning Code anticipated these uses and made specific provision for the process. This site appears to comply with all of the provisions outlined in the code. Approval of this request will go against any Comprehensive Plan policies or guidelines. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. Specifically, the requirements of Section III-D 6.1.(3) of the Zoning code shall be met.
2. The accessory home shall remain on the site as an accessory dwelling for the applicant and his family while the existing site-built home is being remodeled.
3. The manufactured home shall be removed from the property within 90 days after final inspection of the remodeled existing home, but no longer than 15 months from the issuance of remodeling permit.
4. The temporary manufactured home shall be placed on the site as indicated on the site plan.
5. Any violation of the conditions approved as part of this request shall render the conditional use null and void.
6. The site shall be developed in general conformance as with the approved site plan attached to and made a part of this resolution.

**MICHAELIS** moved, **WHEELER** seconded the motion, and it carried unanimously (12-0).

- 8a. **Case No. Z-3334** – Via Christi Regional Medical Center, Inc., c/o Robert C. Copple, P.E.; Via Christi Property Services, Inc. c/o David Mohr (owners); PEC, c/o Gary Wiley, (agent), request zone change from “GC” General Commercial; “B” Multi-Family; and
- 8b. **Case No. DP-132** – Via Christi Regional Medical Center, Inc., c/o Robert C. Copple, P.E.; Via Christi Property Services, Inc. c/o David Mohr (owners); PEC, c/o Gary Wiley, (agent), request an amendment to the St. Francis Regional Medical Center Commercial CUP, described as:

Beginning at the Southwest corner of Lot 1, Ross 3<sup>rd</sup> Addition; thence North, along the West line of said addition and the East line of Topeka, to the Northwest corner of Lot 1, Block 2, St. Francis Regional Medical Center Addition; thence East along the North line of said Lot 1, 150.29 feet to the East line of Lot 5, Tuttle's Addition; thence North along said East line and extended East line to a point in Lot 1, Block 1, St. Francis Regional Medical Center 2<sup>nd</sup> Addition; thence East along the South line of said Lot 1 to the West line of Emporia Circle; thence North along the West line of Emporia Circle, 30 feet; thence East along the North line of Emporia Circle, 80 feet to the East line of Emporia Circle; thence south along the East line of Emporia circle to the North line of Murdock; thence West along the North line of Murdock to the point of beginning. Generally located at the northeast corner of Murdock and Topeka.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant proposes to revise the St. Francis Regional Medical Center Commercial C.U.P. by incorporating four small areas abutting the current boundaries of the C.U.P., and rezoning two small areas from “B” Multi-family to “GC” General Commercial. As proposed, the amendment would clean up the perimeter of the C.U.P. but maintain the boundaries of the medical complex within its current domain defined by Murdock on the south, Topeka on the west, 10<sup>th</sup> Street on the north, and Santa Fe Avenue on the east. A minor aspect of the amendment would be to rename the C.U.P. as Via Christi Regional Medical Center, Inc. St. Francis Campus to reflect the name adopted by St. Francis Hospital after its merger with St. Joseph Hospital. The rezoning request would unify the zoning district classification of the entire C.U.P. as “GC” General Commercial. The uses allowed by the C.U.P. have not changed.

Small changes are proposed for each parcel in the C.U.P. Parcel One would increase from 30.4 acres to 30.6 acres, primarily by addition of a small tract adjacent to the southwest corner of the existing Parcel One boundary. This tract is developed as a parking area next to Heritage Plaza.

Parcel Two would increase from 2.0 acres to 5.6 acres. The additional area includes right-of-way of Emporia Avenue, which the applicant is seeking to be vacated as part of a replat of the area, and inclusion of a triangular piece of land between Emporia, Topeka, and Murdock currently being used as a parking lot. A strip of this parking lot is zoned “B” Multi-Family. The final addition to Parcel Two would be a tract of land located adjacent to the north of the current parcel boundary. This tract is approximately 0.5 acre in size. It was previously occupied by two residences and is zoned “B” Multi-Family. The zoning change request would affect this tract, as well as the strip of the existing parking lot by bringing the entire parcel into the “GC” General Commercial district. The reconfiguration would also make Parcel One and Parcel Two contiguous, which would eliminate the requirement of the current C.U.P. for a screening wall between the parcels and the tract previously occupied by the two residences. The number of buildings permitted would be increased from three buildings to four buildings; the maximum building coverage remains at 30 percent, but shows an increase in the amount of square footage this would allow since the parcel size increases from 2.0 to 5.6 acres.

Parcel Three changes primarily due to inclusion of right-of-way from a portion of St. Francis Street previously vacated and a dedication of right-of-way to Santa Fe Avenue. The net change in Parcel Three would be an increase from 1.7 acres to 2.7 acres.

The impetus for requesting the amendment and zone change is due to plans underway to update the circulation pattern and building configuration within the medical complex. One proposed project is the construction of a new medical facility on Parcel Two. The footprint of the new building would encompass a portion of the existing right-of-way of Emporia Avenue, where Emporia Avenue follows a diagonal path north of Murdock to connect with Topeka. This project would necessitate a vacation of the diagonal connection of Emporia Avenue between Murdock and Topeka, as well as a related request to make the block of Topeka between Murdock and Emporia Avenue a two-way street. As previously stated, the request for the vacation will be done in conjunction with a replat of the area. The request to reroute the traffic has been heard and recommended for approval by the Traffic Engineer, the Traffic Commission and CPO (6).

Currently, a remodeling project is underway to move the entrance for emergency vehicles to the west of the main entrance of the hospital. As a result of this change, the northern segment of Emporia Circle will be vacated.

Other projects in previous years have included construction of the parking garage along Santa Fe and a concomitant realignment of the circulation pattern. At that time, the St. Francis-Santa Fe right-of-way diagonal connection between Murdock and Santa Fe was vacated, and new right-of-way for Santa Fe connecting directly southward to Murdock was dedicated to alter the circulation pattern. The effect of that vacation, plus the anticipated vacation of Emporia Avenue, is to keep public right-of-way following the perimeter streets of Murdock, Topeka, 10<sup>th</sup> and Santa Fe. Internal circulation within the medical complex is via private drives maintained by Via Christi.

The surrounding land uses beyond the super-block comprising Via Christi includes a mix of moderate density residential, commercial and office uses, industrial activities, and some of the most significant historic housing areas in Wichita. An apartment complex, a hotel, medical offices and parking lots are located on the western side of the hospital complex in the blocks lying between Topeka and Broadway. A nursing home located in an inset area between Parcel One and Parcel Two is the last remaining use not part of the Via Christi complex located within the super-block of the campus. On the eastern side of the campus, there is the railroad line, and beyond the railroad line, the property is zoned "LI" Limited Industrial and used for industrial purposes.

The North Topeka Avenue-Emporia Avenue Historic District and the North Topeka Avenue-10<sup>th</sup> Street Historic District are located to the north of the Via Christi-St. Francis Campus. To the south, there are also older houses, although a substantial portion of the first block south of Murdock has been converted to parking lots for Via Christi employees. The continuing expansion of these lots to the south is not part of this request, but represents a potential threat to the long-term prospects for redevelopment of the area between Murdock and Central, currently being planned by a consultant with community input. A well-designed parking lot with strong edges, perhaps with walls or fencing and landscaping, could help mitigate this effect; parking garages would be even more effective at providing an edge to the expansion of the medical complex, conserving land for other uses, and giving a sense of density that encourages continued viability of the neighborhood.

**CASE HISTORY:** DP-132 St. Francis Regional Medical Center Commercial C.U.P. was approved in 1983. It was platted as St. Francis Regional Medical Center Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH: "GO"; "B" Offices, residences, historic district  
SOUTH: "GC"; "LI" Parking lots, residences  
EAST: "LI" Railroad line, industrial  
WEST: "B"; "GC"; "LC" Apartments, hotel, medical offices, parking lots, nursing home

**PUBLIC SERVICES:** This site has access to Murdock and Topeka. An issue related to the amendment to the C.U.P. is the need to vacate right-of-way on Emporia and make Topeka north of Murdock a two-way street. Emporia and Topeka operate as one-way street couplets south of Murdock to downtown Wichita. All northbound traffic on Emporia except those with destinations at St. Francis would have to turn left onto Murdock, jog one block westward, and then make a right turn northward onto Topeka. Current traffic volumes on this segment of Emporia are 4,800 ADTs. Depending on the split between those northbound vehicles on Emporia with destinations at the medical complex and those vehicles continuing beyond St. Francis, there may be a need for a right-turn lane. It is recommended that a contingent right-of-way be dedicated at the time of platting, and possibly a guarantee for the construction of the lane, unless Topeka and Emporia are converted to two-way streets south of Murdock.

Additional traffic improvements guaranteed by the applicant at the Traffic Committee hearing include additional right-of-way on Topeka and Murdock, removal of the median and installation of left-turn bay at Topeka for eastbound traffic, and signal modifications at Emporia if Via Christi allows southbound traffic at Emporia.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as institutional, which includes semi-public uses such as hospital and ancillary facilities.

**RECOMMENDATION:** The proposed amendment does not alter the character of the C.U.P. The addition of small areas on the fringe of the existing parcels, but within the perimeter of the medical complex defined by Murdock, Topeka, 10<sup>th</sup> Street and Santa Fe, gives a better definition of the use and constitutes a good boundary for the Via Christi-St. Francis Campus. Based on these conditions and the information available prior to the public hearing, it is recommended as follows:

- A. APPROVE the zone change from "B" Multi-Family to "GC" General Commercial.
- B. APPROVE Amendment #1 to Community Unit Plan (DP-132), subject to the following conditions:
  1. The property shall be platted within one year of approval.
  2. All new building construction shall utilize materials and colors similar to those building materials and colors existing on the campus.
  3. The property shall comply with site design requirements for screening and lighting in the Unified Zoning Code and landscape requirements in the Landscape Ordinance.
  4. The applicant shall submit 4 revised copies of the C.U.P. and site plan to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property within the proposed expanded C.U.P. boundaries lie within the well-defined campus for Via Christi-St. Francis Campus. The surrounding land uses include

industrial, commercial, parking and residential. The amended C.U.P. does not include expansion to the north or south, where intrusion of semi-public uses might conflict with maintaining the integrity of historic housing stock and urban neighborhoods.

2. The suitability of the subject property for the uses to which it has been restricted: The property that is currently zoned for "B" Multi-Family is within the confines of the existing medical complex. It is unlikely it would be developed residentially, unless the residential use would be in tandem with the medical complex.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment to the C.U.P. and the proposed zone change are not anticipated to have detrimental effects on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as institutional. Via Christi-St. Francis is a semi-public hospital complex that conforms with the Comprehensive Plan.
5. Impact of the proposed development on community facilities: The main effect would result from changing the street network. Making Topeka a two-way street for an additional block north of Murdock and closing off the connector to Emporia, would be expected to increase left-turn traffic movements onto Murdock, and right-turn movements at Topeka Street for an additional block north of Murdock and closing off the connector to Emporia, would be expected to increase left-turn traffic movements onto Murdock, and right-turn movements at Topeka.

**GOLTRY** "I do have one slight recommendation to note on the Conditions. There were only four conditions on this, but on Condition No. 1, 'the property should be platted within one year of approval', upon further discussion with the applicant, they pointed out that, primarily, most of the work was in Parcel No. 2 and requested that they be asked to replat Parcel No. 2. Staff was in agreement with that comment. The other two comments are quite minor, that the new construction shall utilize materials which are similar to building materials already existing on campus; and then that the property comply with other site requirements of screening, lighting, landscaping, etc.

CPO heard this last night and recommended approval of the request 5-0. Are there any questions?"

**GAROFALO** "Are there questions of Donna? I have one. Most of that property now is parking?"

**GOLTRY** "Yes, it is. It is all parking."

**GAROFALO** "Do you have any idea what is going to happen there?"

**GOLTRY** "They may be able to speak better to it. (Indicating) Okay, if you see this little parcel right here, this is one little part of 'B' that is being requested for rezoning. This is the other two parts with the houses on it. This is parking right now. St. Francis actually has control over the northern portions of these blocks, (**UNABLE TO HEAR**) and already is using them for parking. There is also some parking in a parking expansion lot, in the southwest corner of the Heritage Plaza building. Maybe the applicant can speak better to that question."

**GAROFALO** "Are there any other questions of Donna? We will hear from the applicant."

**ROBERT COPPLE** "I am the Director of Facilities Management for Via Christi, 4849 East 24<sup>th</sup> Street. On your question about parking, we are actually making some other changes with other parking through the coming month.

First, one of the lots to the south of Murdock on the east side of St. Francis is our second-shift lot. We are actually moving them into the parking garage, which allows us to move the folks that are in that lot, basically into a lot that is being vacated. We have purchased some additional property south of Murdock as potential, either future parking or a potential future building site, depending on what is determined with the Medical Center, and also the board discussions as well. If there are any other questions you have, perhaps I can respond to them."

**GAROFALO** "Are there any questions of the applicant? Thank you. Is there anyone else here to speak in favor of this application?"

**GARY WILEY** "I am here on behalf of the applicants. I might just suggest that Mr. Copple is in agreement with all of the staff comments, especially with Items No. 1 and 2."

**GAROFALO** "Are there any questions? Okay. Is there anyone else to speak in favor? Is there anyone here to speak in opposition to the application? If not, we will bring it back to the Commission."

**MICHAELIS** "Mr. Chair, I would like to make a comment. I feel compelled to do so. We sat here an hour ago and asked a private individual to give up part of his property for a street that may or may not ever exist. It was purely hypothetical. Now we are sitting here looking at a corporation where the street has already there, already in use, and we are saying it is okay for them to close that. I guess I am having a hard time understanding where that dividing line is.

I am a little surprised at staff, who said previously that they wanted to protect everything they possibly can in the near future, but by the same token, they are willing to give up what they wanted to protect. I am not saying that this whole thing is not good, but I just wanted to make that comment."

**GAROFALO** "Marvin, do you want to respond to that?"

**KROUT** "As long as you are going to give me the opportunity, I think that in the other circumstance, you didn't have a development plan. You don't know how that property is going to develop, and I think planning is keeping options open for the future. In this case, No. 1, we have a specific development plan involving the use of this small portion of the street. No. 2, the Traffic Engineers did a very careful review of what the impact of relocating that traffic is going to be, and felt that there is the capacity on the street to be able to handle that movement.

Plus, the circumstances are different. This is one user in a controlled CUP, as opposed to multiple users in a 1200-foot long block. I think the circumstances are just very different."

**GAROFALO** "Are there any other questions?"

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property within the proposed expanded C.U.P. boundaries lie within the well-defined campus for Via Christi-St. Francis Campus. The surrounding land uses include industrial, commercial, parking and residential. The amended C.U.P. does not include expansion to the north or south, where intrusion of semi-public uses might conflict with maintaining the integrity of historic housing stock and urban neighborhoods. The suitability of the subject property for the uses to which it has been restricted: The property that is currently zoned for "B" Multi-Family is within the confines of the existing medical complex. It is unlikely it would be developed residentially, unless the residential use would be in tandem with the medical complex. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment to the C.U.P. and the proposed zone change are not anticipated to have detrimental effects on nearby property. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as institutional. Via Christi-St. Francis is a semi-public hospital complex that conforms with the Comprehensive Plan. Impact of the proposed development on community facilities: The main effect would result from changing the street network. Making Topeka a two-way street for an additional block north of Murdock and closing off the connector to Emporia, would be expected to increase left-turn traffic movements onto Murdock, and right-turn movements at Topeka Street for an additional block north of Murdock and closing off the connector to Emporia, would be expected to increase left-turn traffic movements onto Murdock, and right-turn movements at Topeka.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. APPROVE the zone change from "B" Multi-Family to "GC" General Commercial.
- B. APPROVE Amendment #1 to Community Unit Plan (DP-132), subject to the following conditions:
  - 1. Parcel 2 shall be re-platted within one year of approval.
  - 2. All new building construction shall utilize materials and colors similar to those building materials and colors existing on the campus.
  - 3. The property shall comply with site design requirements for screening and lighting in the Unified Zoning Code and landscape requirements in the Landscape Ordinance.
  - 4. The applicant shall submit 4 revised copies of the C.U.P. and site plan to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

**MARNELL** moved, **WARREN** seconded the motion, and it carried unanimously (12-0).

- 9a. **Case No. Z-3335** – Ahmed J. and Jennifer M. Karim (property owners); John and Caroline Barber (contract purchasers); Baughman Company P.A. c/o Russ Ewy (agent) request zone change from "SF-6" Single-Family Residential; and
- 9b. **Case No. CU-540** – Ahmed J. and Jennifer M. Karim (property owners); John and Caroline Barber (contract purchasers); Baughman Company P.A. c/o Russ Ewy (agent) request a Conditional Use for personal care service on property described as:

Lot 1, Block 4, Purcell's 7<sup>th</sup> Addition, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Harry and Christine.



**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a change in zoning classification to "GO" General Office and a Conditional Use for personal care service for a barber and alteration shop. The application area is located on a lot of approximately 0.16-acre site at the northeast corner of Harry and Christine, and located one block east of Edgemoor.

The application area is currently zoned "SF-6" Single Family and is occupied by a single-family residence. It is adjacent to single family houses to the east, to the north and across the street to the south, all of which are zoned "SF-6" Single Family. Across the street to the west is a QT convenience store on property zoned "LC" Limited Commercial. The QT occupies the block between Christine and Edgemoor. The other three properties at the intersection of Harry and Edgemoor are zoned "LC". Other uses at the intersection include a grocery store, a Dairy Queen and small strip center, and a Walgreen's and another small retail center with a liquor store and other office/neighborhood retail uses. It is in the vicinity of three schools, Caldwell Elementary, Curtis Middle School, and Southeast High School, all located west of Edgemoor between Harry and Lincoln.

The applicants have indicated that they intend to operate a barber shop and an alteration shop within the existing single-family home. The business would have an impact similar to a home occupation except that the applicants do not intend to live on the premises. The garage on the western end of the house would be removed and be the location of off-street parking for customers. The site plan incorporates a landscape street yard, parking lot screening, and buffering in conformance with the Landscape Ordinance. A proposed six-foot screening fence is shown on the northern and eastern property line in conformance with screening requirements of the Unified Zoning Code. The property also complies with the 25-foot compatibility setback on the northern line, and provides a 12-foot setback on the eastern property line. The property would be excepted from providing the full compatibility setback required by the UZC since it is an existing structure. Based on the square footage of the existing structure being 988 square feet, four off-street parking spaces would be required, as is shown on the proposed site plan.

The applicant has volunteered to abide by a set of conditions that would result in the use functioning similar to a home occupation. The conditions proposed by the applicant are the following:

1. The use of the property shall be restricted to "personal care service" and all other uses permitted by the "SF-6" Single-Family Residential district.
2. The use of the property shall be consistent with the site plan approved as part of the Conditional Use.
3. No alteration of the principal building or premises shall be made which changes the residential character or appearance thereof.
4. No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, or odors that are in excess of ordinary and usual conditions prevailing in the immediate neighborhood as determined by the Zoning Administrator.
5. There shall be no outdoor storage of equipment, materials or vehicles used in the "personal care service."
6. No more than two persons shall be employed in the "personal care service" conducted on the subject property.
7. No inventory shall be displayed or sold on the premises.
8. The "personal care service" use shall be conducted entirely within the principal dwelling.
9. Signage shall be limited to one thirty-two square foot ground or monument-style sign not to exceed 8 feet in height.

**CASE HISTORY:** The property consists of Lot 1, Block 4, Purcell's 7<sup>th</sup> Addition in 1949, and recorded January 3, 1950.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-6" Single Family	Single-family residences
SOUTH: "SF-6" Single Family	Single-family residences
EAST: "SF-6" Single Family	Single-family residences
WEST: "LC" Limited Commercial	Convenience store, small retail center

**PUBLIC SERVICES:** The site is situated along Harry, a five-lane arterial with 1997 traffic volumes of 19,187 ADTs for the westbound segment at the intersection of Harry and Edgemoor, one block west of the site. Traffic volume for 2020 is projected to increase to 25,000 ADTs. Municipal water and sewer service is available to serve the site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the application area and all adjacent land, including the site of the QT at the intersection of Harry and Edgemoor, as appropriate for low density residential. The remaining corners of Harry and Edgemoor are recommended as commercial. The Plan identifies all property on both sides of Harry to remain as low density residential extending eastward from the application area until one block east of Woodlawn, except for a parcel occupied by a church that is recommended for institutional use. Even though Harry is a relatively heavily traveled street, the Comprehensive Plan did not recommend the continued "stripping out" of commercial uses from Edgemoor to Woodlawn, but that it be maintained as a residential area. It falls within a "conservation" area on the Area

Treatment Classification Map of the Comprehensive Plan. This would be an area that is basically sound physically and should be protected from decline.

**RECOMMENDATION:**

Based on the Comprehensive Plan recommendations, the surrounding land use should be protected as a continued residential neighborhood. However, due to the stringent conditions volunteered by the applicant, the nature of the proposed "GO" General Office use would be to function similarly to a home occupation except for the fact that the operators of the personal care service businesses would not be residing in the residence. These conditions, coupled with the site design, should enable the personal care service to coexist with the surrounding residential area with minimal intrusion. An additional factor is the close proximity to the convenience store. The personal care service could perhaps function as a buffer between the QT and the remaining residential area, and serve as the endpoint for any non-residential encroachment eastward along Harry.

It is felt that perhaps the condition restricting the use to only personal care service and other "SF-6" uses is overly restrictive, and that other general office uses would also be appropriate as a use in this situation. The other changes recommended to the volunteered conditions is to ensure that signs be further limited to prohibit banners and window signs that are incompatible with a residential neighborhood. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The use of the property shall be restricted to "personal care service," "office, general," "medical service," and all other uses permitted by the "SF-6" Single-Family Residential district.
2. No alteration of the principal building or premises shall be made which changes the residential character or appearance thereof.
3. No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, or odors that are in excess of ordinary and usual conditions prevailing in the immediate neighborhood as determined by the Zoning Administrator.
4. There shall be no outdoor storage of equipment, materials or vehicles used in the. "personal care service," "office, general," or "medical service" uses.
5. No more than two persons shall be employed at the same time in the "personal care service" conducted on the subject property.
6. No inventory shall be displayed or sold on the premises.
7. The "personal care service," "office, general," or "medical service" use shall be conducted entirely within the principal dwelling.
8. Signage shall be limited to one thirty-two square foot ground or monument-style sign not to exceed 8 feet in height. No banners, pennants, window signs, flashing signs, rotating signs, or string lights shall be permitted.
9. The property shall comply with screening and compatibility standards of the Unified Zoning Code and landscaping requirements of the Landscape Ordinance.
10. The site shall be developed in general conformance with the approved site plan attached to and made a part of this resolution.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site has commercial uses and "LC" Limited Commercial zoning located to the west, but the remaining areas to the north, east, and south are zoned "SF-6" Single Family and used as single family residences.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "GO" General Office zoning, with the proposed conditions, would allow a low-intensity personal care business or office use adjacent to single family dwellings. Customers to the business could be expected to generate a few additional cars to park in the area, although the off-street parking to be provided should be ample to satisfy demand generated by the use.
3. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence.
4. Impact of the proposed development on community facilities: The use of this property should have very limited impact on community facilities.

**GOLTRY** "I will stand for questions."

**MCKAY** "Within the recommendations, Donna, one talked about restrictive conditions on retail sales. I don't know of a barber shop that doesn't sell the stuff they use. Shouldn't that be....?"

**GOLTRY** "Well, we asked that. That was one condition that they volunteered. You can, perhaps, talk with them about that. It is customary that they sell shampoo on site."

**MCKAY** "That is what I am saying. That or cosmetic stuff of some kind."

**GOLTRY** "They actually volunteered that in that way."

**WARREN** "It is my understanding that this is intentionally going to have two occupants with two separate occupations. Is that correct?"

**GOLTRY** "The applicant is here and can speak to that, but it is my understanding that they intend to occupy one room for the barber shop and another room will be the alteration shop. And they won't be remodeling the inside of the house."

**WHEELER** "Is that originally part of the structure or an addition?"

**GOLTRY** "It is part of the structure. Actually, you may have a point. I think it probably was added on, when you look at it. I hadn't really thought about that. I think you are right, it is added on."

**GAROFALO** "Are there any other questions? Donna, go back to the slide that shows the Quik Trip. I think that is it. What you are talking about is right there where the arrow is, right?"

**GOLTRY** "It is."

**GAROFALO** "And the Quik Trip extends from Christine down to the corner, to Edgemoor?"

**GOLTRY** "Right."

**GAROFALO** "Okay. Then to the east, all of this is residential?"

**GOLTRY** "That is correct."

**GAROFALO** "Okay. Are there any other questions? We will hear from the applicant."

**GOLTRY** "The CPO voted 5-0 with one abstention to approve. It didn't reflect that in the little blue sheet from the CPO. They didn't mention the abstention. It was because the one person who was on the CPO patronizes this particular barber shop."

**GAROFALO** "So our CPO minutes are incorrect?"

**GOLTRY** "They are incorrect."

**RUSS EWY** "I am with the Baughman Company, agent for the applicants. I won't spend much time going over the staff comments, only just to say that we are in agreement with the staff comments, which are, as Donna mentioned, above and beyond those conditions that we volunteered when we applied for this."

A little bit of the reasoning behind why we are proposing the zone change and relocating these two business people to this location, their existing location has been at a little strip center behind the Dairy Queen, you can see the Dairy Queen sign there, on the southwest corner of Harry and Edgemoor. They have been operating at this intersection for some 20 years. I believe the strip center has been bought out from under them and they wish to retain, based on the clientele in this neighborhood, retain a presence at this intersection. I would be more than happy to answer any questions that you have regarding the specifics of the zone change."

**WARREN** "As I understand it, you are going to have two separate businesses. This item 5 says 'no more than two persons'. Now, does that mean the business owner can have one employee and that would be four people in there?"

**EWY** "Our intention was to limit it to two employees in the structure. The barber and the person running the alteration shop."

**WARREN** "And they could each have an employee?"

**EWY** "Each would be the employee."

**WARREN** "So there are just two people in this altogether? Could they hire another person to come in there?"

**EWY** "Again, we intended it that the same type of restrictions that apply to home occupations."

**WARREN** "It just seems to me to be unreasonable that you wouldn't have the possibility of having some assistant part-time workers come in there which would be convenient. Each owner could have a part-time worker."

**EWY** "Again, that wasn't our intent. The applicants state that they.."

**WARREN** "If you aren't going to fight for that, I am not going to."

**WHEELER** "I have a question. I am just curious, this says 'no retail sales'. I understand that staff would want to limit that to non-retail items, but I am just curious on the applicant's behalf, if they wanted to be able to sell hairspray or shampoo at sometime in the future (**UNABLE TO HEAR**) Those type of sales are typically a part of that type of business."

**EWY** "Actually, you will find that that is probably the main restriction of allowing beauty shops as a home occupation, because it does prohibit retail sales. I am going to say that a beauty shop probably does have a large percentage of their sales coming in cosmetics and certain hair care products. Mr. Barber and I went over that several different times and he currently doesn't sell products, hasn't sold products, nor will he sell products. So that is something he can live with."

**GAROFALO** "Did you say the applicant is not concerned about this?"

**EWY** "No. As I mentioned, we went over this several different times, have met with him in his shop, and I saw firsthand that he doesn't sell products."

**KROUT** "Russ, the other change we suggested was to also permit, without having to come back for an amendment, an office use or clinic use. Does your applicant go along with that?"

**EWY** "I did state that we were in agreement with those extra conditions in the staff report."

**GAROFALO** "I guess I have another question. The reference here in several places to personal care services. Do you view that as including the alterations?"

**EWY** "Right. As a matter of fact, I believe it states alteration shop in the definition of personal care services. Actually, it states both uses that we are going for under personal care services."

**GAROFALO** "On No. 8, the provisions were proposed by the applicant. That's on Page 3, 'personal service uses shall be conducted entirely in the principle dwelling'."

**EWY** "Again, that language is mainly borrowed from the home occupation requirements."

**GAROFALO** "That would include the alterations shop?"

**EWY** "Right. Both of them would be under home occupation."

**GAROFALO** "Are there any other questions? Is there anyone else here to speak in favor of this application? Is there anyone to speak in opposition? All right, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The site has commercial uses and "LC" Limited Commercial zoning located to the west, but the remaining areas to the north, east, and south are zoned "SF-6" Single Family and used as single family residences. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "GO" General Office zoning, with the proposed conditions, would allow a low-intensity personal care business or office use adjacent to single family dwellings. Customers to the business could be expected to generate a few additional cars to park in the area, although the off-street parking to be provided should be ample to satisfy demand generated by the use. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence. Impact of the proposed development on community facilities: The use of this property should have very limited impact on community facilities.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. Approve the zone change (Z-3335), subject to platting within 1-year.
- B. Approve the Conditional Use (CU-540), subject to the following conditions:
  1. The use of the property shall be restricted to "personal care service," "office, general," "medical service," and all other uses permitted by the "SF-6" Single-Family Residential district.
  2. No alteration of the principal building or premises shall be made which changes the residential character or appearance thereof.
  3. No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission, or odors that are in excess of ordinary and usual conditions prevailing in the immediate neighborhood as determined by the Zoning Administrator.
  4. There shall be no outdoor storage of equipment, materials or vehicles used in the "personal care service," "office, general," or "medical service" uses.

5. No more than two persons shall be employed at the same time in the "personal care service" conducted on the subject property.
6. No inventory shall be displayed or sold on the premises.
7. The "personal care service," "office, general," or "medical service" use shall be conducted entirely within the principal dwelling.
8. Signage shall be limited to one thirty-two square foot ground or monument-style sign not to exceed 8 feet in height. No banners, pennants, window signs, flashing signs, rotating signs, or string lights shall be permitted.
9. The property shall comply with screening and compatibility standards of the Unified Zoning Code and landscaping requirements of the Landscape Ordinance.
10. The site shall be developed in general conformance with the approved site plan attached to and made a part of this resolution.

**MCKAY** moved, **MICHAELIS** seconded the motion.

**OSBORNE-HOWES** "I just want to make a comment. It is nice to see an applicant and an agent who is sensitive to preserving the neighborhood. I applaud that."

**VOTE ON THE MOTION:** The motion carried with 12 votes in favor. There was no opposition.

Osborne-Howes left the meeting at 3:55 p.m.

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10. **Case No. CU-510** - Miles Village-Lake Waltanna Homeowners Association (Owner); Baughman Company, P.A. (Agent) request a Conditional Use for an airstrip on property described as:

Reserves B & C, Miles Country Club Estates - Lake Waltanna - Miles Village Addition, Sedgwick County, Kansas; Together with a tract of land described as follows: Beginning at a point 30 feet north of the Southwest corner of the Southeast Quarter, Section 23, Township 28 South, Range 3 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence north along the West line of said Southeast Quarter, 984.12 feet to the Southwest corner of Reserve B, Miles Country Club Estates -Lake Waltanna - Miles Village Addition, Sedgwick County, Kansas; thence east, 100 feet to the Southwest corner of Lot 8, Block 12, Miles Country Club Estates -Lake Waltanna - Miles Village Addition; thence south to a point 30 feet north of the south line of said Southeast Quarter; thence west, 100 feet to beginning. Generally located North of 55th Street South approximately one-half mile west of 231st Street West.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use for property zoned "RR" Rural Residential for a private airstrip located north of 55th Street South, approximately two miles west of 231st Street West. The private airstrip has been operating at this location as a non-conforming use since the earliest phase of development in the late 1960s, in conjunction with the Miles Country Club Estates-Lake Waltanna Village Addition. It could continue to exist as a private airstrip, however the effect of approval of the Conditional Use is to ratify the appropriateness of this use.

The application was originally heard by MAPC on April 15, 1999, and by the Board of County Commissioners on May 12, 1999. At that time, the application area included additional land to be developed with hangars for storing airplanes owned by residents of Lake Waltanna. The Board remanded the application to MAPC for reconsideration. At the time of the hearing, there were protests equal to approximately 67 percent of the land ownership represented by the larger application area encompassing the property for the hangars. Several of these petitions were withdrawn, reducing the amount of protests to 44 percent.

Since that time, the request for the hangars, and the land associated with that portion of the request, has been withdrawn. The scope of the request to be considered today comprises only the existing private airstrip owned by the Miles Village-Lake Waltanna Homeowners Association.

The private airstrip is available for use by all members of the homeowners association.  
It is a 100-foot grass strip that extends northward from 55<sup>th</sup> Street South, along the western edge of the subdivision.

The surrounding land use is a mix of rural residential and agricultural uses. Miles Country Club Estates-Lake Waltanna Village Addition ("Lake Waltanna") is a single-family residential subdivision of lots averaging 1/2 acre in size. The development includes recreational facilities, a horse stable, a lake, and the airstrip. The land southeast of the application area is developed with large lot (5 acre) residences fronting onto 55th Street South. The land across 55th Street South is in agricultural use, with one residence located southwest of the application area that has another, smaller airstrip for private use. The land to the west

is in agricultural use. Drainage of the airstrip is northerly for the northern 1/3 and southwesterly for the remaining southern portion. It drains toward the adjacent agricultural property. The strip was designated on the subdivision plat as a drainage reserve.

**CASE HISTORY:** Miles Country Club Estates - Lake Waltanna Village Addition was platted May 12, 1965.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR" "Rural Residential"	Single family residences
SOUTH:	"RR" "Rural Residential"	Agricultural, airstrip, single family residence
EAST:	"RR" "Rural Residential"	Single family residences
WEST:	"RR" "Rural Residential"	Agricultural

**PUBLIC SERVICES:** The application area is located along 55th Street South, a two-lane unimproved arterial. Public sewer and water are not available.

**CONFORMANCE TO PLANS/POLICIES:** The Adopted Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for agricultural use. The Locational Guidelines of the Comprehensive Plan recommend that airports be sited away from large water bodies, landfills and concentrations of people.

**RECOMMENDATION:** The approval of the Conditional Use would serve to endorse the existing land use as being appropriate, and would not change the status quo with regard to use of the property as an airstrip. The airstrip is owned by the homeowners association and has been available for the use and benefit of all members of Lake Waltanna since the subdivision was established. Based upon this and information available prior to the public hearing, planning staff recommends that the request be APPROVED with the following conditions:

- A. The applicant shall dedicate additional right-of-way along 55th Street South equal to 50 feet from centerline by separate instrument prior to the issuance of any building permits.
- B. The airstrip shall be utilized by non-commercial aircraft only.
- C. Uses permitted shall be only those associated with the normal operation of a private airport. Nothing in the approval of this request shall be construed to permit the sales of products or services.
- D. Any violations of the above conditions shall render this conditional use permit null and void.

This recommendation is based on the following findings.

1. The zoning, uses and character of the neighborhood: The surrounding property is agricultural to the south, the west, and the northwest across 55<sup>th</sup> Street South, and is residential to the northeast and east. A small lake is located north of the strip. Another small private airstrip is located across 55<sup>th</sup> Street South.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The airstrip has been in existence and has been a feature of the Lake Waltanna development since its inception. A small group of homeowners use the strip. Most of the homeowners with property adjacent to the strip have hangars to house their private airplanes. Approval of the Conditional Use would allow this use to discontinue its non-conforming status.
3. Suitability of the subject property for the uses to which it has been restricted: The existing airstrip could continue to be used in its current configuration without approval of this request due to its non-conforming status.
4. Conformance of the requested change to adopted or recognized Comprehensive Plan: Small, private airstrips are generally considered compatible with areas in agricultural use and zoned "RR" Rural Residential. The locational guidelines recommend not having airports located near large water bodies, large concentrations of population, or landfills. There is no landfill nearby. Lake Waltanna is a small water-body of roughly 25 to 30 acres in size. Most of the houses nearby were built after the airstrip was established. The airstrip is a unique recreational amenity offered by Lake Waltanna, similar to the other amenities offered by the subdivision such as the horse stables and the boating facilities.
5. Impact of the proposed development on community facilities: The proposed use should not generate any significant traffic affecting the road network. Public sewer and water service are not available.

**GOLTRY** "When this was heard the first time and sent back for reconsideration, we had a considerable amount of opposition, almost 67% of the surrounding area. Prior to the applicant withdrawing the hanger portion, we already had had some people withdraw their protest petitions, down to 43%. Since the hangar portion has been eliminated entirely, there has been no contact to us at all about it. I don't know if there are other people here to speak. Questions?"

**WARREN** "We spent a long time on this, and I don't see any people here for it. I am just curious...we talk about that we are doing this to ratify the appropriateness of this use. Why did this come back? What do they need on this?"

**KROUT** "This is a non-conforming use because it was done before there was a zoning Conditional Use requirement. Only because they wanted to do the hangars, and they had to get permission to do that, and they were saying that as long as they had to do that, they would make the airstrip part of it, making the airstrip a legal conforming use and make it part of the Conditional Use process. If they wanted to, they could have just stopped once the hangar wasn't going to be built, but they filed an application, they have gone through the process this far, and felt that they may as well make this a conforming use."

**WARREN** "Okay."

**GAROFALO** "Can we hear from the applicant or agent?"

**RUSS EWY** "I am with the Baughman Company, here for the applicant. Marvin summarized the reason why we are back with this. We have gone this far, we might as well take it the distance and get at least what we can out of it and rezone it to make the existing area conforming."

**WARREN** "I am surprised, with the reduced results you had you weren't back in here, asking for that hangar again. Because I think you might get it."

**HENTZEN** "And I think you should be, sometime."

**GAROFALO** "Are there any other questions? Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? We will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding property is agricultural to the south, the west, and the northwest across 55<sup>th</sup> Street South, and is residential to the northeast and east. A small lake is located north of the strip. Another small private airstrip is located across 55<sup>th</sup> Street South. Extent to which removal of the restrictions will detrimentally affect nearby property: The airstrip has been in existence and has been a feature of the Lake Waltanna development since its inception. A small group of homeowners use the strip. Most of the homeowners with property adjacent to the strip have hangars to house their private airplanes. Approval of the Conditional Use would allow this use to discontinue its non-conforming status. Suitability of the subject property for the uses to which it has been restricted: The existing airstrip could continue to be used in its current configuration without approval of this request due to its non-conforming status. Conformance of the requested change to adopted or recognized Comprehensive Plan: Small, private airstrips are generally considered compatible with areas in agricultural use and zoned "RR" Rural Residential. The locational guidelines recommend not having airports located near large water bodies, large concentrations of population, or landfills. There is no landfill nearby. Lake Waltanna is a small water-body of roughly 25 to 30 acres in size. Most of the houses nearby were built after the airstrip was established. The airstrip is a unique recreational amenity offered by Lake Waltanna, similar to the other amenities offered by the subdivision such as the horse stables and the boating facilities. Impact of the proposed development on community facilities: The proposed use should not generate any significant traffic affecting the road network. Public sewer and water service are not available.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. The applicant shall dedicate additional right-of-way along 55th Street South equal to 50 feet from centerline by separate instrument prior to the issuance of any building permits.
- B. The airstrip shall be utilized by non-commercial aircraft only.
- C. Uses permitted shall be only those associated with the normal operation of a private airport. Nothing in the approval of this request shall be construed to permit the sales of products or services.
- D. Any violations of the above conditions shall render this conditional use permit null and void.

**WARREN** moved, **HENTZEN** seconded the motion, and it carried unanimously (11-0).

11. **Case No. 99-27** – The City of Wichita seeks the annexation of properties generally located east and west of Webb Road, between Central Avenue and 13<sup>th</sup> Street North.

**BOB ISAAC**, Planning staff, "This is a unilateral annexation of property generally located east and west of Webb Road between Central Avenue and 13<sup>th</sup> Street North. The State law requires that the Planning Commission review the proposal for the unilateral annexation. Staff recommends that you find the annexation compatible with the adopted Comprehensive Plan.

This annexation consists of 102 properties, primarily residential. Two tracts are commercial, and there are formally two schools. I believe that there is a portion that is also exempt. As you can see, on the far upper left there is a school also included.

This area is right next to the industrial district of Raytheon, which recently expired, and they are looking into expanding their industrial district. There are a few properties they own near the industrial district. So far it hasn't been renewed, to my knowledge.

The yellow border indicates where the industrial district was and until further notice, that is where it is. Parts south of Central were decided not to be in the annexation. It is several properties with one owner. But having spoken with officials from Raytheon, it looks like they are intending to buy this property and expand their district in that area. So we elected to stay north of Central with this annexation. Are there any questions?"

**GAROFALO** "Are most of these properties residential."

**ISAAC** "They are primarily..."

**GAROFALO** "That is Minneha School, right?"

**ISAAC** "Yes it is. On the west side. And this is Collegiate right here. There are two schools total in this area. (Indicating) This area is currently in the city limits. We are going after this area here."

**MCKAY** "You said you had removed the industrial zone area. How many of the properties in this area we are annexing now does the Raytheon organization own?"

**ISAAC** "Raytheon does own a few properties in this particular annexation area, but they are allowing us to go ahead with it because it is surrounded by areas that we want, but over here, to the left, we are going after this particular tract here, and those areas right down here as well. That was also included, but by speaking with them, they already have plans for their areas. We basically agreed to keep the annexation to the ones before you. There is other property on this side of the map that they want to look into expanding their district into. They already own those properties.

The properties that they don't currently own are right through here (indicating). But all of those properties of the one owner, they don't want those annexed."

**GAROFALO** "Are the properties Raytheon owns within the annexation area, do they have operations there?"

**ISAAC** "There is a utility station that they own, I believe. Well, they own the land, and there is one other piece that is vacant. That is right over here."

**WARREN** "Now that is the Raytheon Lake and their park area to the north? "

**ISAAC** "Yes."

**WARREN** "And that is not in the City, is it?"

**ISAAC** "No. Everything within the yellow boundaries belongs to Raytheon. All of that all the way up."

**WARREN** "You gave Raytheon, Beech and Cessna a community of annexations some years ago, is that still in effect?"

**KROUT** "It is technically expired as of the end of August. They are applying to renew it and do some minor expansion."

**WARREN** "And that would probably include that park area?"

**KROUT** "Yes. It would include the park."

**ISAAC** "They want to take what they already have and just reshape it."

**MCKAY** "I have a question of staff. Is there any way that you can show us on this general map, what we are talking about? The areas we are talking about. The area within, let's say a mile or two miles that we have annexed between this in the last year and a half or so, that are around this project? We have annexed quite a of property over here. I would kind of like to see the total overall picture rather than just what we are doing here now."

**KROUT** "We have a map in our office that shows all of the annexations we have done, don't we?"

**ISAAC** "Yes."

**KROUT** "Could you bring that in while we are having the last discussion, or we could bring it to another meeting."

**ISAAC** "The most current map I have is on the wall."

**KNEBEL** "We have another one of those."

**MCKAY** "I would just like to have it for reference for the future. If we are going to be going through a process out here now, I would like to have something for reference."



**ISAAC** "John, go ahead and take a look at your Map No. 1, the general vicinity map. It is difficult to see, but you can see where the current city boundaries are. The annexations are there, indicated by the dash, long dash lines."

**MCKAY** "I understand that, but some of it has been there for a long time, some of it is has not. We have annexed an awful lot of ground there recently."

**ISAAC** "Oh, you mean recently then."

**KROUT** "I think it would be interesting to see a map that shows just all of the land the City has annexed in the last year or two."

**MCKAY** "Yeah. The reason I am wanting it is because of the process we are going through now on land use and some of the projections that have been made and stuff like this. I would kind of like to see that."

**KROUT** "Okay. Can we bring in one of those maps, Scott, while they are talking about transportation enhancements? Now, this does require you to find this compatible with the Comprehensive Plan."

**MOTION:** That the Metropolitan Area Planning Commission find that the areas are appropriate for annexation and that the unilateral annexation is compatible with the adopted Comprehensive Plan.

**WARREN** moved, **MICHAELIS** seconded the motion, and it carried unanimously (11-0).

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## **12. Other matters**

**GAROFALO** "Jamsheed Mehta is going to talk to us about the Application for Transportation Enhancement Funding."

**KROUT** "While Jamsheed is getting is getting ready, one of the other items is that it is the Chairman's job to appoint members to the Subdivision Committee and the Advance Plans Committee. It will be three members of the City appointees and three from the County appointees to be on the Subdivision Committee. So if you have preferences about which committee you want to serve on over the next year, call Frank directly, or give me a call and I will talk to him over the next two weeks. At the next meeting, we will ask him to announce those appointments to the Subdivision Committee and the Advance Plans Committee. Also, we will need a volunteer, unless Frank wants to appoint himself, to be the representative on the Tri-County Planning Board."

**GAROFALO** "Isn't usually the case that the Chair is on Tri-County?"

**KROUT** "Sometimes yes, sometimes no. It has been for the last couple of years."

**GAROFALO** "As a matter of fact, before you leave, if you have a preference, you can come tell me. Okay, does everybody have the handout on the Transportation enhancements? Okay."

**JAMSHEED MEHTA** "About two weeks ago, the last time we met, I read to you all of the projects that we have been considering at that time for submitting to the state for the Transportation Enhancement Funds. Since then, we have taken the list to the Coordinating Committee on transportation planning. The chair of that committee is the chair of the Planning Commission, the ex-chair, now, Mr. Johnson, and I am bringing this back before you for a final recommendation so that it can go to the respective governing bodies.

There is one County project on this list. There are 14 city projects that will go to the City governing body, and one from the City of Haysville, which is the final one down on your list. We can make this rather painless by asking you if you have any questions because we did look through the list last time and there are no surprises or additions. Or, I could go down the list and educate you on what the proposals are."

**GAROFALO** "I might just point out to the other Commissioners, because I asked the question earlier, before we started, the numbering here of 1,2,3,4, etc., does not indicate priority. Then Marvin said that the State wouldn't pay any attention to it if it was."

**MCKAY** "You wouldn't want to slip in an application for 135<sup>th</sup> Street and half a mile south of Maple to Kellogg, would you?"

**KROUT** "We could only slip in a bicycle path along the Street."

**MCKAY** "We could just make it a wide bicycle path, about 36 to 40 feet wide."

**GAROFALO** "Does anyone have any questions concerning this? Do we need to have a motion?"

**MOTION:** That the Metropolitan Area Planning Commission approve the projects as recommended by the Coordinating Committee on Transportation Planning (CCT) and further recommend approval of the enhancement projects to the Governing bodies.

**MCKAY** moved, **WHEELER** seconded the motion, and it carried unanimously (11-0).

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**13.      Discussion on District Advisory Boards**

**GAROFALO** "If there is anyone who has comments they want to make on the District Advisory Boards, we will do that now. We had a discussion two weeks ago about this."

**MCKAY** "How did the meeting go, was it last Thursday they had the meetings on this?"

**KROUT** "Well, I only heard about three of the speakers, I think Jerry was there longer than I was, before and after both. I was told afterwards that about three-quarters of the speakers were opposed to eliminating the CPOs. Chris, were you there?"

**CARRAHER** "At the meeting last Thursday, yes I was."

**KROUT** "Okay. So maybe some of the Planning Commission members can talk about this meeting."

**CARRAHER** "I guess I could answer any questions anybody has regarding the meeting specifically."

**GAROFALO** "What was the general sentiment at that meeting?"

**CARRAHER** "Well, that they were against the changes that were being proposed in regards to the District Advisory Boards. There seemed to be two camps. Those who don't want any change and those who want change, but not to the extent that is being proposed. But I would also have to, in all fairness, qualify the sentiment in the fact that the majority of the people who were there were either involved in CPOs directly, or were supporters, either through Neighborhood Associations or through Wichita Independent Neighborhoods. So I guess the make-up of the audience was slanted in that regard."

**MICHAELIS** "Another thing that came out of it is that they are not very fond of the MAPC. That was very, very obvious."

Hentzen left the meeting at 4:15 p.m.

**GAROFALO** "What was the discussion with regard to night meetings, if any?"

**MICHAELIS** "I think the biggest hang-up was the appointment process versus the election process. I think if it would have been conceded to have let the District Advisory Boards exist, only let them be effective within the CPO, I think that probably would have been a good compromise, people could have lived with it."

The issue all came down to zoning. They didn't want to give up their part in zoning. They were all very adamant about the night meetings. I got the impression that they preferred that we would have every meeting at night. That was probably one sided, but like Chris said, it was a very biased crowd."

**GAROFALO** "Well, it doesn't surprise me that they don't want to give up the zoning."

**WARREN** "Jerry, more specifically, when you say they were somewhat anti-MAPC, what do you mean?"

**MICHAELIS** "They didn't like the make-up, they didn't like the process by which it is made up, they didn't like the way it is appointed. They wanted to limit it to a certain number of people from a certain segment, and one person had to be from here, one person had to be from here."

**WARREN** "But don't you gather from this that they think that the whole zoning process should be more of a popularity thing, or a democratic thing rather than a law that we have to follow?"

**MICHAELIS** "Yes."

**WARREN** "And that is where I think we get in trouble."

**MICHAELIS** "Yes, very much so."

**WARREN** "They think that if they have spoken in a majority that we should react without regard to what is in this book. That is what they don't understand. I hope somebody explains that sometimes what we do is not what we would want to do."

**MICHAELIS** "And they probably feel that they are more qualified to do that than we are because they are affected by it."

**WARREN** "And if they were here, they would still have to go by the Subdivision Regulations and the Zoning Ordinances. That is where we get in trouble."

**MICHAELIS** "As a summary, I don't think anything came out of it that was substantial. I talked to Councilmember Pisciotte a couple of days later and he and Beth kind of 'got into it' a little bit, which is no surprise. But like I was telling Chris earlier, she kind of 'waffled' on her stance from where she was during that, and as a result of that, I think they are probably going go on with their interpretation of how they saw this thing as being structured."

**GAROFALO** "Was there any indication of when this will go to Council?"

**KROUT** "At the end of the meeting, did they say anything about it?"

**CARRAHER** "Nothing special, but from what I have been hearing, around the 21<sup>st</sup>."

**KROUT** "That would be next Tuesday's meeting?"

**CARRAHER** "Right. But like I said, that is hearsay. I don't know."

**KROUT** "That is why I am suggesting that if there are any comments that you would want to make, officially, as a group, to the City Council, this would be the time to do that."

**BARFIELD** "Will the 25<sup>th</sup> meeting be a public hearing?"

**CARRAHER** "I think the public hearing on the 9<sup>th</sup> was supposed to be 'the' public hearing, especially as it pertained to the membership of CPO instead of going around to all 6 CPOs, they decided to have one central meeting."

**MICHAELIS** "I think, Marvin, that some information we should put forth is how we feel about the night meetings. That is an issue. The consensus I got out of it is that if something came up, like the Home Depot, or something that was very controversial, and we needed to, we would agree to a night meeting. But just to say that we will have night meetings just to have night meetings, I think we need to make a statement on that."

**GAROFALO** "I agree. I think it would be all right to have night meetings when we have a controversial issue."

**BARFIELD** "Can you imagine how long those night meetings could run?"

(Laughter)

**KROUT** "As you said last time, I think you would have to find ways to streamline the process. That is something you could do in the afternoons, too, that wouldn't have to be just for the evening meetings. The difficulty is that we get a case and we really don't always know,...when we get a case we have about three days to get an advertisement and notices together, and very often, we have no idea at that time whether something is going to be controversial or not. There are cases that we might guess are going to be controversial that aren't, and other cases we would guess are not going to be controversial and they become very controversial. So I don't think that you can easily say that we will select something if it is controversial and put it on a evening."

**BARFIELD** "I think we should send a message to the City Council that we will match them."

**MARNELL** "I am still new here, but it seems like if we arrived at something that is really 'hot' and there is such a short period to give notice to people, we ought to do something different on that. We could do defer it, to do something like re-noticing or whatever it would be, but just for routine meetings, I am not for it. It creates a burden on staff, and the day doesn't get shorter, the job gets longer. For me, personally, it would be a problem to schedule this."

**WARREN** "I guess the big thing, too, is would we improve the process, would we improve the decision making that we do by going to night meetings? I don't think we would. I don't think anything would really change. We might have a few more participants, I doubt it."

**MCKAY** "Well, one of the things, we sit here and if we know there is going to be something controversial, we start at 12:00, and then at 4:00, we are still on the same item, and we maybe have 7 more items on the agenda. These people sit there for four hours listening to us argue about something else. Then all of a sudden, it comes to 6:30 or so, and we start losing a quorum. They have set here all day long, and we have to defer their case or make a judgement that is not a very good judgement as far as we are concerned."

So, I kind of agree that there is an item, for example, that the first time around it is controversial, then defer it, open it up to an evening meeting and let a whole bunch of people come. I am going to use, for example the Home Depot situation. We heard that thing how many times? I'll bet we had nine hours of public hearings for that, wouldn't you say? I know it was on three meetings. And one of the things we could do,... when we are having our public hearings on the Park and Pathway Plan, what we did was let everybody testify, there were no questions asked, and then if we had a question of speaker so-and-so, we waited until everybody got through and then, as Commissioners, call that person back up and ask the questions. That really speeds up the process. Because normally, by the time you listen to 25 people, you are going to forget the question of the third person. It has been answered, or in your mind it has been answered. A lot of times, we are our own worst enemy."

**WHEELER** "This is just my personal thoughts on the status of the CPOs. I think the City Council put them in place, created them, and I realize that it was a different City Council at that time. I guess my personal feeling is that they need to re-evaluate them, since they originally put them in place. I don't think it is really our place to comment on that tool."

In terms of the evening meetings, I don't know that it is going to solve a whole lot. Just the logistics of it, I mean, we look at minutes that are three, sometimes four months old now because we don't have the staff to get them done. I can't imagine the time it is going to take to accommodate some of those actions. I think there is an administrative side that needs to be looked at, too. If there was

some way to know about controversial cases, they could be maybe scheduled later in the agenda so that it is closer to 4:00 o'clock and people can get off work.

Other professional governmental offices don't operate between 5:00 and midnight. They typically operate from 8:00 to 5:00 like other businesses do."

Johnson left the meeting at 4:30 p.m.

**CARRAHER** "Just as a point of information, the City already has staff working the CPOs at night. If the changes were to be made, I think we could safely assume, since the people on CPO staff would no longer be CPO staff, and they could be transferred to help with some of the administration in regard to the MAPC meetings. I am not 100% sure on that, I am 80% sure, but it might be a possibility. I just wanted to throw that in."

**WARREN** "Well, Commissioner Carraher started this conversation, though, by suggesting that we are reacting to the possibility of just a few. We don't even know that we are reacting to what would be a full public...there are some very active CPO members, and some that are very vocal. This is what we are reacting to. Do they represent the whole community? I question that."

**BARFIELD** "Well, but he also said that he doubts if there is going to be a **(UNABLE TO HEAR)**, so that is what you are going to have to do."

**MICHAELIS** "We are going to have to make a statement on the night meetings, I guarantee that. We have to do that."

**GAROFALO** "I was thinking that we could suggest possibilities. We really don't know...we can't be specific at this time about how we could do it. Why couldn't we just make a general statement to the City Council that the night meetings should be left to our discretion so that they wouldn't order us to have night meetings."

**MCKAY** "To the discretion of whom?"

**GAROFALO** "The discretion of the Planning Commission."

**WARREN** "Let's say limited night meetings will be left to the discretion of the Planning Commission."

**BARFIELD** "Well, since this is a combination City and County Board, the City doesn't have the authority to designate night meetings, do they?"

**KROUT** "It is in the by-laws that all regular meetings will be held at 1:30, provided that the Commission may adopt another hour, date or place by majority vote. You have occasionally had an evening meeting. So I think that it says that unless otherwise publicly announced, this is when the meetings will be held. So I think that it takes a change of the by-laws, which has to be approved by a majority of the Commission, and then it has to be concurred in by both the City Council and the County Commission.

I don't think the City Council can dictate to you that you are going to have evenings. On the other hand, I think that how they approach this whole issue may have something to do with what it is you tell them that you are going to be willing to or not be willing to amend, in terms of your by-laws."

**MARNELL** "In that case, I would suggest that we make it very clear, because I know that the members on the Council that will insist on having night meetings."

**MICHAELIS** "And another thing is, to my knowledge, or at least as of last Saturday, there hadn't been a real good communication between the City Council and the County Commission as far as this whole D.A.B. process. So, the possibility of that may not even exist there."

**GAROFALO** "Well, if we said something like what I mentioned before, it would pretty much jibe with the by-laws. I mean any night meetings would be left to the discretion of the Planning Commission."

**MICHAELIS** "I think we might say something just strictly to what it says right there. If it says that is what the meetings are supposed to be, until further notice, that is the way it should be. It might be helpful to this process if we would ask if Councilmember Cole is willing to make an exception for this to be just for controversial issues.

**MCKAY** "That will create that. If we start night meetings, that will create that. It will create that every little thing being controversial."

**GAROFALO** "Well, maybe we should lay off of that kind of language and do something like...just say to leave it to the discretion of the Planning Commission."

**WARREN** "That would put the monkey on their backs if something happened."

**BARFIELD** "From what I am hearing, we are hearing this night meeting stuff from the CPO. I haven't heard anybody say that we are hearing this from the City Council."

**KROUT** "It is part of their proposal. Two City Council members got together and reviewed the recommendations of the Task Force that has been involved, and they recommended it."

**MCKAY** "Who were the City Council members?"

**KROUT** "Cole and Pisciotte."

**MICHAELIS** "By the way, has everyone here been contacted by Cole? All of the City appointees? She said she talked to everybody but one, and I felt that I had to be that one, since I hadn't been."

**CARRAHER** "Yeah, I thought that, too, as soon as she said that. I have been meaning to ask the other City appointees."

**WARREN** "I did speak to her."

**MICHAELIS** "This was about the night meetings. She specifically said she had talked to all of them about the night meetings, all but one. So I thought I was the one."

**GAROFALO** "So, what do we want to do?"

**WHEELER** "Repeat what you are talking about, I am not sure, that the meetings would stay as they are scheduled?"

**GAROFALO** "I just said that any night meetings would be left to the discretion of the Planning Commission."

**WARREN** "Or would be subject to changing the by-laws."

**MCKAY** "We are not going to change our by-laws."

**KROUT** "That is what I sense, is that you are not prepared to amend your by-laws."

**WARREN** "Would we have to amend them to have an occasional night meeting?"

**MCKAY** "We could have an occasional special meeting."

**WARREN** "Now, wait a minute, if we say that, we are giving notice to the public that we meet every other Thursday at 1:30. That is our policy. If we are going to change that...."

**WHEELER** "Don't our by-laws include special meetings?"

**WARREN** "Do we have to change that?"

**MCKAY** "No, we can have special meetings."

**KROUT** "You can have special meetings without changing your by-laws, but what I understand is that you are not prepared to change your by-laws to have either one or two regular evenings meetings, or have evening meetings on a regular basis."

**MCKAY** "The worst that could happen is that they would ask us all to resign."

**MICHAELIS** "If they go to night meetings, that might happen."

**GAROFALO** "I think that is the consensus."

**KROUT** "Frank asked me if I was all right with what he said. I understand what you are saying, but I am not sure that I agree with it. I think about when we had that car wash case recently, where 20 people showed up at the CPO meeting and nobody showed up here at MAPC, and I think that is because CPO represents both a convenient time and place, especially the time, for most people.

If you are eliminating the CPO and not providing somewhere for people to express their views, then I think you are reducing citizen involvement. The purpose of this was to make citizen involvement more effective."

**MCKAY** "If these are formed, Marvin, regardless of what way they are formed, if there is something that comes before this neighborhood group, or the neighborhood organization, won't we pretty much know that this is going to be very controversial by the number of people and then we can have a meeting at night? For that same reason, we could do so. I thought this was the reason that CPOs, from what I heard, they are wanting to get rid of them, because they are really not doing what their purpose was originally intended to do. They have become more self-sustaining than they have been trying to represent the neighborhood, they are representing themselves. I think that was one of the biggest complaints.

So now, if we do have a neighborhood organization that approves, whatever form it is set up in, won't that be the same kind of catalyst and we will know?"

**KROUT** "The other part of this is that it was recommended that we set some way, even if it is evening meetings --that we have some way to have an information meeting before they get to the MAPC hearing, to provide information to people. I have always said that I thought we could do that more effectively and more neutrally than at CPO, where it is really another hearing.

So, our suggestion was that, especially if you don't go to evening meetings, and even if you did--that we should have information meetings at a convenient place and time in an evening, and have an option for them to do that before they apply or after they apply. I understand that it is being proposed and that would still be optional, whereas now it is not optional. Now, we schedule a CPO meeting before every MAPC meeting. So, we would be making it optional. We would eliminate the requirement that we have now, that someone meet out there at CPOs at night, in an evening meeting out in the neighborhood. Then you aren't going to have evening meetings to provide a place for the hearing either. To me, that is not good for citizen involvement."

**MCKAY** "Okay, explain to me about the optional. Whose option? Staff's option? Our option? The City's option? While we are discussing whether or not we are having evening meetings, let's sit down and critique what their program is and how it is going to be set up."

**WARREN** "Marvin, I think I am hearing you say that you want a meeting where you would have the opportunity to survey what is going to come before the group and what **(UNABLE TO HEAR)** before the City Council; an open discussion-type meeting that would be separate from the MAPC meeting? And with that, I think I am hearing you say that maybe it wouldn't have quite the need to have MAPC night meetings?"

**KROUT** "If you had that, then I think that it would be less important for the MAPC to meet at night, and at least you would be providing that opportunity for people to decide "do I want to pursue this further with the MAPC, or do I want to go home and am I satisfied?"

**WARREN** "That might settle the demand we are having now for night meetings."

**MICHAELIS** "It would also help the reluctance of the CPOs to go away because they would still feel like they had a vehicle to get their point across."

**WARREN** "I like that scenario."

**KROUT** "I proposed, months and months ago, when there was still a CPO, and we said it would be voluntary. Now we are saying that if you eliminate CPO, I think it should be mandatory, but let the applicant decide whether he wants to have it before he files or after he files. But I know from Wess (Galyon) has said that he is not in favor of making it mandatory. He is in favor of it continuing to be an option. If an applicant doesn't want to have an information meeting before or after he applies, that would be his option. The idea is that if he gets a lot of opposition, he may end up with the case being deferred, and people will learn that it is better to have an informational meeting.

If an applicant chooses not to have an evening meeting, and there is no information meeting in the evening at a convenient time and place, and then you don't have evening meetings, then you are not providing much of an opportunity for citizens then to be involved in that process, and it is very likely that people who would like to really don't have an opportunity."

**MCKAY** "We are going to do that on every item, or just zoning cases?"

**KROUT** "Zoning cases. The cases we have today that we do schedule for CPO. "

**WARREN** "I am opposed to making the applicant, as a requirement for zoning, meet in advance, like at some kind of CPO-type organization. I am opposed to that. What I understood, though, is that the staff, maybe, would take a case with the applicant's **(UNABLE TO HEAR)** and then set aside some time to discuss this in something less than a formal meeting."

**MICHAELIS** "But you are still doing the same thing. You are still going, basically, against the applicant's wish of not wanting to have it and forcing it upon him by doing that."

**WARREN** "Well, we've already got the application, and the application is already made, and all these guys are doing is trying to explain what is being requested and the effects it may have."

**MICHAELIS** "Let me ask a question. Most of you guys have been on here a whole lot longer than I have, so I beg your forgiveness. This system has been in place for quite some time, and it has been working well for quite some time, and I really, truly believe that if anybody has a particular need to express themselves in a zoning case, and if it is that important to them, they will take off that afternoon, or they will have a representative there to speak for them. I really don't feel that we are depriving them of anything at all."

**GAROFALO** "But I think there are people who just can't get off."

**MICHAELIS** "But those are the people, though Frank, that we are going to sit here until Midnight listening to saying the same things over and over and over and over."

**WARREN** "I agree with what he is saying. "

**GAROFALO** "I think what Marvin is saying is that this whole District Advisory Board (DAB) thing is supposed to be intended to enhance or increase public or citizen involvement."

**MCKAY** "Let me ask a question. Could we have a timetable that we would establish up front? In other words, we notify them that we are going to have it at this time or at that time, and normally, when the public hearing notice is sent out, you know that within 3 or 4 days after it is sent out whether it is going to be controversial or not. Is that correct?"

**KROUT** "No."

**MCKAY** "No?"

**KROUT** "No. Sometimes, we don't know until the time of the meeting whether or not it will be controversial. Or, we don't know until the CPO meeting. That is usually the first we hear about it. Occasionally, some people will start calling us a few days before the CPO meeting. But usually not until close to the meeting."

**MCKAY** "Okay. In your public notification, do you say, if there are any questions or anything about this item, please contact us and give the telephone number?"

**MILLER** "Yeah."

**GAROFALO** "Is there any chance at all, Marvin, that this preliminary meeting business, whether it be optional or mandatory or whatever, is going to be included in this whole proposal?"

**KROUT** "I think even Wess agreed that it should be an option that an applicant has that he can say he wants it or doesn't. I have said that if we are going to do it effectively, and it is after he applies, that we need to add one week to our process."

**MCKAY** "And that is what my point was. If we are going to do that, let's do it."

**WARREN** "And you see that as being a night meeting?"

**KROUT** "A night meeting somewhere out in the neighborhood. Possibly, even at the same time that this District Advisory Board is meeting. They would have a regular schedule and we would be able to schedule it according to their schedule. But they wouldn't be holding a hearing, they wouldn't be voting on recommendations, they wouldn't be choosing between the applicant and the neighbors."

**MCKAY** "But that wouldn't be a night meeting for us."

**KROUT** "No. That wouldn't be a night meeting for you."

**WARREN** "But you say optional is the key word, and yet there is a great fear that there would be coercion in requiring them to do this."

**KROUT** "That was the position of the realtors and the homebuilders in January."

**WARREN** "That's right."

**MCKAY** "The only thing about this is that anybody who has a project they want to go through, and they have any feel, and they will know immediately whether or not there is going to be opposition, they go try to disbar that, they let the neighborhood know in advance. We do. I go to the neighbors around and say 'this is what we are going to do with this property, blah, blah, blah. Then they feel like they have had some input."

**WARREN** "So what you are saying is that you already have that now."

**MCKAY** "But not everybody is doing it. Some people would try to force it and actually keep away from it."

**MICHAELIS** "But more and more people are doing it."

**MCKAY** "Well, they should do it. That is not what Marvin is saying. It makes it almost mandatory that there be a meeting. I don't know if that is any more illegal than some of requirements we put on people here, so..."

**KROUT** "Just remember that we do have a mandatory meeting now, and once in a while the applicants don't show up there, but we do have a mandatory CPO meeting now."

**WHEELER** "Marvin, how many cities in Kansas have CPOs? Isn't it kind of a rarity thing for Wichita? I don't think CPOs are real common."

**KROUT** "We are the largest city in Kansas, and I don't know of anyone else that has them. There are certain cities outside of Kansas that have something equivalent to CPOs. I think the larger a city is, the more it needs to be broken down into something that is more manageable. I am guessing there is something like that in Lawrence and Topeka."

**WHEELER** "I don't know of anything. I am sure the Task Force and the City Council select **(UNABLE TO HEAR)** districts where **(UNABLE TO HEAR)**. I would feel real uncomfortable with all of this change, and with us mandating or making strong recommendations for that."

**MARNELL** "Does this change the staff requirement for you? You have to send your people to CPO meetings where there are zoning issues anyway, don't you?"

**KROUT** "We try to take in the controversial ones, and that is how we know that we don't always guess right. We have been sending people to what we thought were the more controversial CPO meetings, and have just relied on the CPO staff and the CPO to handle it otherwise. I think we would end up needing to go to more meetings in the evenings than we do now, so yes, it is more of a burden on staff. We also did add a person to the Current Plans staff, so that we could do a better job trying to facilitate and mediate some of those conflicts in advance."

Evening meetings are not something that most of the staff people want. Evening Planning Commission hearings on a regular basis is not something that Karen, for instance, is very thrilled about, and I guess the Planning staff also is not very thrilled about it."

**MCKAY** "There has to be some way that this can worked out."

**WARREN** "Jerry, I like our position. This thing has worked for a long, long time, and until we get a hue and cry that is louder than I think I am hearing, I am not sure that we should change it from day to night."

**MICHAELIS** "I really don't think there is a big need to. Most of the people who were there the other night were feeling invaded a little bit because their position was being taken away from them. It was more of a personal thing. It is just an adjustment. If we go away from CPOs, go to the DABs, people will adjust. It is just a matter of the way the system evolves. But by the same token, I wouldn't have a problem in going with Frank's suggestion of saying we don't want them, but at our discretion, if we think they are necessary, we will have them. That still leaves the control with us."

**WARREN** "The only problem with that I can see is that that discretion of ours, for instance, it **(UNABLE TO HEAR)** quite a bit **(UNABLE TO HEAR)** the College Hill Tower, did that fall under the term controversial? Absolutely."

**MICHAELIS** "And the numbers I heard the other night, or wherever I heard them, were like last year there were 80 some zoning cases. Ten of them were semi-controversial and 3 or 4 of them really turned into a big deal. So, here again, I don't know if it is necessary to change our whole policy for a very small per centage."

**GAROFALO** "I think if we say we want to leave it to our discretion, I don't think we are eliminating any possibilities or including any possibilities. We will look at all of the cases as necessary."

**MICHAELIS** "And I would assume we would do the same thing. We would sit here and if you feel like something is controversial and we need a night meeting, I feel like if we could discuss it and vote on it."

**WHEELER** "I think the other thing, too, is that at the time it is important to people that come before us, but in my particular case, if someone sends a memo or a letter, I will pay just as much if not more attention to the written objections to something as I do listening to someone for five minutes, because it is put into concise thought, plan and whatever time of day, with faxes, someone could shoot something out in 10 minutes compared to taking off work and taking off work and coming. So I think there are vehicles if people want to be heard."

**MICHAELIS** "That is a good point. With all of the technology we have today, we could set up a computer in here and have somebody in the office get them."

**KROUT** "I was just sitting here thinking that whatever you decide to do, I am going to look at our notices. I know that every six months or so I ask to take a look at those again. I want to do that. I am not sure that we tell people we will take your comments in writing if you are not able to be here. I think we can also offer them to E-mail or fax their comments in."

**MICHAELIS** "I think that would straighten it out."

**WHEELER** "I realize everybody doesn't have a computer, but you could go to the corner grocery store or whatever and for a dollar you can send a fax."

**GAROFALO** "I do think there is a sentiment out there that meetings ought to be in the evening, especially on controversial issues. That it should be more convenient for them to attend. I kind of sensed that the general consensus was that **(UNABLE TO HEAR)**."

**KROUT** "If the Council wonders what that means, I hear you saying that if you have a hearing that is controversial, that you may decide to continue that to an evening meeting."

**MCKAY** "I think also that if you are going to give a recommendation, that we, as the Planning Commission, would kind of like to have an input on how they organize these groups."

**KROUT** "The DABs?"



**MCKAY** "Sure. I am talking about how the City Commission, one of the biggest controversies in one of the biggest things I heard was that they were not organized. They just came up with the night meetings with no backing or anything else. That is why at the last meeting when we discussed this, I said that we should start with Marvin's program and expand from there."

**GAROFALO** "They had a Task Force."

**MCKAY** "I know they had a task force, but did you read what they recommended? It said pulled out of here, pulled out of here, and pulled out of here. Seriously, I thought there was no continuity whatsoever."

**WARREN** "Marvin, do you feel that now you've got direction to report?"

**KROUT** "Yes, I think so, and what I may do is, if there is going to be a hearing, I may send a note that if the City Council wants, that maybe Frank can be at the meeting to answer any questions that they have about how they think the Planning Commission would feel."

**CARRAHER** "I would like to go on record to say that I stand opposed to that, just because I feel that I wouldn't be representing my constituency well if I didn't speak against the consensus of the majority. I just want to put that in the record."

**KROUT** "Is that with regard to evening meetings or with regard to the whole CPO issue?"

**CARRAHER** "Evening meetings. I feel that we should have evening meetings. That is why I thought we were going to make a recommendation. I feel that if we are going to make a recommendation, it should be on the record."

**GAROFALO** "We are not saying that we aren't going to have any evening meetings. You are saying that you think we should be more specific?"

**CARRAHER** "Yes. I think there should be a motion to vote on. I feel there should be something for the record, especially if you are going to come before the City Council. I think that would be a good idea."

**KROUT** "That way your position is clear on this."

**WARREN** "So you are looking for a motion."

**CARRAHER** "Yes, I am."

**MOTION:** That we recommend to the governing body that the Planning Commission continue the current policy of regular meetings on Thursdays at 1:30, with the Planning Commission retaining the option to continue controversial issues to evening meetings as necessary.

**GAROFALO** moved, **MCKAY** seconded the motion, and it carried with 8 votes in favor (Michaelis, Warren, McKay, Garofalo, Wheeler, Marnell, Barfield, and Warner). Carraher opposed.

**WARREN** "I agree with how we did that. I would like to have it so that we declare a position, and instead of kind of 'yeah, this is what we think', we do it. I think it is great."

**GAROFALO** "Okay. If anybody wants to write their name down for what they prefer between Subdivision and Advance Plans, you can do so."

The meeting unofficially adjourned at 5:00 p.m.

State of Kansas        )  
Sedgwick County     ) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)